

**Army Regulation 215–3**

**Morale, Welfare, and Recreation**

# **Nonappropriated Funds Personnel Policy**

**Headquarters  
Department of the Army  
Washington, DC  
1 April 2002**

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# ***SUMMARY of CHANGE***

AR 215-3

Nonappropriated Funds Personnel Policy

This revision--

- o Changes the title of the regulation to "Nonappropriated Funds Personnel Policy."
- o Changes the proponent from the Deputy Chief of Staff for Personnel to the Deputy Chief of Staff, G-1. The Assistant G-1 for Civilian Personnel Policy approval is required for both the establishment of or appointment to a Nonappropriated Fund NF-6 position (chap 1).
- o Changes from six appointment categories to two appointment categories (chap 2).
- o Streamlines non-disciplinary adverse actions (chap 2).
- o Incorporates employment preference for Involuntary Separated Military and their dependents (chap 2).
- o Limits details to the same or lower grade/level to one year (chap 2).
- o Authorizes the use of Temporary Help Firms (chap 2).
- o Incorporates requirements of the Crime Control Act of 1990 requiring application information and criminal history checks for employees working with children (chap 2).
- o Requires separation of off-duty military upon retirement absent a waiver (chap 2).
- o Replaces former Universal Annual, Administrative Support, and Patron Services pay systems with the Army Pay Band System (chap 3).
- o Establishes the Child Care Pay System (chap 3).
- o Authorizes holiday pay/leave only for regular employees (chap 3).
- o Eliminates discretion regarding local hire living quarters allowance in foreign areas (chap 3).
- o Provides new guidance to servicing personnel offices on the acceptance of levies and garnishment orders (chap 3).
- o Authorizes recruiting bonus, relocation bonus, and retention allowance (chap 3).
- o Ensures overseas allowances and differentials in accordance with DoD 1400.25-M (chap 3).

- o Authorizes compensatory time off in lieu of overtime pay when requested by Federal Wage System employees (chap 3).
- o Requires compensatory time off be used within 26 pay periods, or overtime will be paid at the rate in effect when the work was performed (chap 3).
- o Authorizes alternative work schedules for regular full-time and regular part-time employees.
- o Authorizes telecommuting (chap 4).
- o Establishes a mechanism for the remitting of payment for both the employer and employee share of contributions for insurance premiums when an employee is granted leave without pay (chap 5).
- o Incorporates the Family and Medical Leave Act (chap 5).
- o Provides for expanded use of sick leave (chap 5).
- o Authorizes a leave transfer program for Army Nonappropriated Fund Instrumentality regular employees on a dollar for dollar basis (chap 5).
- o Removes 90 day qualifying period for use of annual leave (chap 5).
- o Requires performance rating on flexible payband employees (chap 6).
- o Modifies procedures for adverse actions based on unsatisfactory performance (chap 6).
- o Requires coordination with the servicing legal office prior to taking any performance based or disciplinary action.
- o Authorizes alternative discipline programs (chap 7).
- o Replaces former grievance procedure with simplified grievance procedure (chap 8).
- o Provides for review above the installation level of separations for cause and business based actions when requested by a regular employee (chap 8).
- o Authorizes performance based pay adjustments for pay band employees (chap 9).
- o Removes reduction-in-force procedures (chap 10).
- o Establishes Business Based Actions (chap 10).
- o Establishes reporting requirements for the extension of nonstandard negotiated provisions in a collective bargaining agreement to nonbargaining unit employees (chap 13).
- o Recognizes Voluntary Early Retirement Authority and Discontinued Service Retirement as options to involuntary separation (chap 15).
- o Specifies limits on life insurance benefits (chap 15).

- o Describes the DOD Benefits Plans (chap 15).
- o Authorizes retirement service credit for prior retirement plan participation with repayment of refunds (chap 15).
- o Establishes the 401(k) Savings Plan (chap 15).
- o Revises qualification requirements (app B).
- o Revises Standard Terms for Nature of Action, DA Form 3434 (app C).

Effective 1 May 2002

**Morale, Welfare, and Recreation**

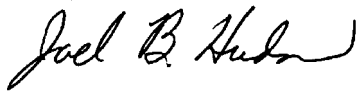
**Nonappropriated Funds Personnel Policy**

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By Order of the Secretary of the Army:

ERIC K. SHINSEKI  
*General, United States Army*  
*Chief of Staff*

Official:



JOEL B. HUDSON  
*Administrative Assistant to the*  
*Secretary of the Army*

**History.** This printing publishes a revision of this regulation. Because the publication has been extensively revised, the changed portions have not been highlighted.

**Summary.** This regulation provides uniform policies governing personnel management and administration for nonappropriated fund instrumentalities (NAFI) employees of the Department of the Army (DA). It incorporates the requirements of the Department of Defense Personnel Policy Manual for NAFIs and the Office of Personnel Management (OPM) instructions when they specifically addresses NAFI employees.

**Applicability.**

a. This regulation applies to civilian employees and off-duty United States Army (USA) military personnel paid from nonappropriated funds (NAF) and who are under the exclusive control of the Secretary of the Army, including the following:

(1) All civilian employees and off-duty US military personnel employed by a NAFI within the United States.

(2) United States citizens and all off-duty US military personnel or permanent residents of the United States, its territories and possessions, including the Commonwealth of Puerto Rico, employed by a NAFI outside the United States except:

(a) Where specifically limited to employees within the United States.

(b) Where employees in Panama are specifically excluded.

b. This regulation does not apply to—  
(1) Local nationals or third country nationals employed in foreign areas.

(2) Employees of private associations and funds described in AR 210-1.

(3) Independent contractors, such as professional entertainers, where no employer/employee relationship exists.

(4) Civilian instructors and administrators in the General Education Program who are employed in accordance with a special contract.

(5) The Army National Guard or US Army Reserve.

(6) Individuals employed by private concessionaires doing business under contract with a NAFI.

(7) NAF employees of the Air Force, the Navy (Bureau of Personnel, Navy Exchange and the Marine Corps) and the Army and Air Force Exchange Service.

(8) Employees paid from appropriated funds.

(9) Commissioned and warrant officers of the military components.

**Proponent and exception authority.**

The proponent of this regulation is the Deputy Chief of Staff, G-1. The proponent has the authority to approve exceptions to this regulation that are consistent

with controlling law and regulation. Proponents may delegate this approval authority, in writing, to a division chief within the proponent agency who holds the grade of colonel or the civilian equivalent.

**Army management control process.**

This regulation is subject to the requirements of AR 11-2, Management Control Process. It contains management control provisions and identifies key management controls that must be evaluated (see app E).

**Supplementation.** Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from The Deputy Chief of Staff, G-1, ATTN: DAPE-CP-NAF, Washington, DC 20310-0111.

**Suggested Improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Deputy Chief of Staff, G-1 ATTN: DAPE-CP-NAF, Washington, DC 20310-0111.

**Distribution.** This publication is available in electronic media only and is intended for command level C for the Active Army.

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\*This regulation supersedes AR 215-3, 20 February 1984, and rescinds DA Form 3438 (Department of the Army Nonappropriated Funds Employment Record), August 1986; DA Form 3435-R (Department of the Army Job Description, Nonappropriated Funds), May 1985; and DA Form 3832-R (Reports of Federal Employment and Wages), December 1975.

## **Contents** (Listed by paragraph and page number)

### **Chapter 1**

#### **Introduction, page 1**

##### *Section I*

###### *General, page 1*

Purpose • 1-1, *page 1*

References • 1-2, *page 1*

Explanation of abbreviations and terms • 1-3, *page 1*

Responsibilities • 1-4, *page 1*

Operations • 1-5, *page 4*

Exception to policy • 1-6, *page 5*

Whistleblower protection • 1-7, *page 5*

##### *Section II*

###### *Civilian Personnel Administration at Installation Level, page 6*

Introduction • 1-8, *page 6*

Organization • 1-9, *page 6*

Administration • 1-10, *page 6*

Staffing of NAF-CPU • 1-11, *page 6*

Funding • 1-12, *page 6*

Records • 1-13, *page 6*

##### *Section III*

###### *The NAF Casualty System, page 6*

General • 1-14, *page 6*

Operational guidance • 1-15, *page 6*

Funding • 1-16, *page 7*

Regulatory guidance • 1-17, *page 7*

### **Chapter 2**

#### **Employment, page 7**

Introduction • 2-1, *page 7*

Appointment categories • 2-2, *page 9*

Filling positions • 2-3, *page 9*

Preliminary actions and recruitment • 2-4, *page 10*

Recruitment authority • 2-5, *page 11*

Processing applications • 2-6, *page 11*

Referral • 2-7, *page 11*

Selection preferences for NF-3 and below, FWS and CC positions • 2-8, *page 12*

Priority consideration for NF-3 and below, FWS and CC positions • 2-9, *page 12*

Documentation of selection • 2-10, *page 12*

Spouse employment preference (SEP) • 2-11, *page 12*

Involuntarily separated military preference (ISMP) • 2-12, *page 13*

Appointment • 2-13, *page 13*

Appointment actions • 2-14, *page 16*

Denial of employment • 2-15, *page 16*

Separations • 2-16, *page 17*

Applicability • 2-17, *page 18*

Probationary purpose • 2-18, *page 18*

Probationary period • 2-19, *page 18*

Employment requirements of military personnel • 2-20, *page 19*

Equal Employment Opportunity Program policy • 2-21, *page 20*

Staffing and complaint handling • 2-22, *page 20*

## **Contents—Continued**

Commander's responsibilities • 2-23, *page 20*  
Career Referral Program (CRP) • 2-24, *page 20*  
CRP applicability • 2-25, *page 20*  
CRP administration • 2-26, *page 20*  
CRP registration • 2-27, *page 21*  
CRP Referral Program rosters • 2-28, *page 21*  
CRP requesting referral lists • 2-29, *page 21*  
CRP referral lists • 2-30, *page 21*  
CRP selection • 2-31, *page 22*  
CRP funding • 2-32, *page 22*  
Removal of names from central rosters • 2-33, *page 22*  
Competitive promotions • 2-34, *page 22*  
Noncompetitive promotions • 2-35, *page 23*  
Information available to employees • 2-36, *page 23*  
Complaints • 2-37, *page 23*

## **Chapter 3**

### **Classification and Pay, *page 23***

#### *Section I*

##### *General, page 23*

Coverage • 3-1, *page 23*  
Provisions • 3-2, *page 23*  
Classification and pay responsibilities • 3-3, *page 24*  
Basic requirements for pay • 3-4, *page 25*

#### *Section II*

##### *Federal Wage System, page 25*

General • 3-5, *page 25*  
FWS within-grade Increases • 3-6, *page 25*  
Creditable service for within-grade increases • 3-7, *page 25*  
Duration of waiting periods • 3-8, *page 25*  
Beginning of a waiting period • 3-9, *page 25*  
Determining FWS rates of pay • 3-10, *page 25*  
FWS premium pay • 3-11, *page 26*  
Grade and pay retention • 3-12, *page 27*

#### *Section III*

##### *Pay Band System, page 27*

Pay bands • 3-13, *page 27*  
Pay band pay schedules • 3-14, *page 28*  
Pay band premium pay • 3-15, *page 29*

#### *Section IV*

##### *Child Care (CC) Pay System, page 30*

General • 3-16, *page 30*  
CC structure • 3-17, *page 30*  
CC schedule changes • 3-18, *page 30*  
Classification of CC positions • 3-19, *page 30*  
Determining rates of CC pay • 3-20, *page 30*  
Premium pay • 3-21, *page 30*  
Mandatory assignment to target level • 3-22, *page 30*

#### *Section V*

##### *Miscellaneous Pay Provisions, page 31*

Compensatory overtime for religious observance • 3-23, *page 31*



## **Contents—Continued**

Hazard and environmental differentials • 3–24, *page 31*

Severance pay • 3–25, *page 31*

Allowances and differentials • 3–26, *page 32*

Dual pay • 3–27, *page 32*

Withholding taxes • 3–28, *page 32*

Tips • 3–29, *page 33*

Other pay provisions • 3–30, *page 33*

Back pay computation • 3–31, *page 34*

### *Section VI*

*FWS Position Classification Appeals System, page 34*

General • 3–32, *page 34*

Exclusions • 3–33, *page 34*

Notice of appeal rights • 3–34, *page 34*

Representation • 3–35, *page 35*

Complaint procedures • 3–36, *page 35*

Appeal procedures • 3–37, *page 35*

Appeals to the Office of Personnel Management • 3–38, *page 36*

Special Procedures for Demotions Based on Position Classification • 3–39, *page 36*

### *Section VII*

*Tip-Offset Procedures, page 38*

Applicability • 3–40, *page 38*

Tip-offset • 3–41, *page 38*

### *Section VIII*

*Special Compensation Authorities, page 38*

General • 3–42, *page 38*

Recruiting bonus • 3–43, *page 38*

Relocation bonus • 3–44, *page 39*

Retention allowance • 3–45, *page 39*

## **Chapter 4**

**Hours of Duty, page 39**

### *Section I*

*General, page 39*

Authority • 4–1, *page 39*

Establishment of workweeks • 4–2, *page 39*

Establishment of tours of duty • 4–3, *page 40*

Special considerations in establishing work schedules • 4–4, *page 40*

Daylight-saving time • 4–5, *page 41*

Rest periods • 4–6, *page 41*

Meal periods • 4–7, *page 41*

Incidental duties • 4–8, *page 41*

### *Section II*

*Holidays, page 41*

Legal holidays • 4–9, *page 41*

Authority • 4–10, *page 42*

Determining holidays • 4–11, *page 42*

## **Chapter 5**

**Leave, page 42**

## **Contents—Continued**

### *Section I*

*Family Leave Policies, page 42*

Family leave • 5-1, *page 42*

Family and Medical Leave Act (FMLA) of 1993 • 5-2, *page 42*

Sick leave for general family care or bereavement purposes • 5-3, *page 43*

Expanded sick leave to care for a family member with a serious health condition • 5-4, *page 43*

Organ donor leave • 5-5, *page 43*

### *Section II*

*Annual leave, page 43*

Introduction • 5-6, *page 43*

Creditable service for annual leave accrual • 5-7, *page 43*

Accrual of annual leave • 5-8, *page 44*

Accumulation of annual leave • 5-9, *page 44*

Payment and transfer of annual leave • 5-10, *page 45*

Delayed receipt of record of leave data • 5-11, *page 46*

Use of annual leave • 5-12, *page 46*

Leave Transfer Program • 5-13, *page 46*

### *Section III*

*Sick Leave, page 47*

Earning rates • 5-14, *page 47*

Amounts to be charged • 5-15, *page 47*

Use of sick leave • 5-16, *page 47*

Administration • 5-17, *page 47*

Advance of sick leave • 5-18, *page 48*

Transfer of accumulated sick leave • 5-19, *page 48*

Funding of transferred sick leave within Army NAFIs • 5-20, *page 48*

Recredit of sick leave • 5-21, *page 49*

Separation • 5-22, *page 49*

On-the-job injury • 5-23, *page 49*

### *Section IV*

*Home Leave and Emergency Leave, page 49*

Explanation of terms used for home leave and emergency leave • 5-24, *page 49*

Provisions of home leave • 5-25, *page 50*

Home leave eligibility • 5-26, *page 50*

Computation of home leave • 5-27, *page 50*

Granting home leave • 5-28, *page 50*

Emergency leave • 5-29, *page 50*

### *Section V*

*Leave without Pay/Absence Without Leave, page 50*

General • 5-30, *page 50*

Granting LWOP • 5-31, *page 51*

Approval of extended LWOP • 5-32, *page 51*

Duration of LWOP • 5-33, *page 51*

Absence without leave • 5-34, *page 51*

### *Section VI*

*Absence for Maternity or Paternity Reasons, page 51*

Consideration of request • 5-35, *page 51*

Leave for maternity • 5-36, *page 51*

Leave for paternity • 5-37, *page 51*

## **Contents—Continued**

### *Section VII*

*Military Leave, Military Furlough, and Court Leave, page 52*

Military leave • 5–38, *page 52*

Military furlough • 5–39, *page 52*

Court leave • 5–40, *page 52*

### *Section VIII*

*Excused Absences, page 53*

Uncontrollable shutdowns • 5–41, *page 53*

Effect of shutdown • 5–42, *page 53*

Foreign holidays • 5–43, *page 53*

Exception • 5–44, *page 53*

Excused absences • 5–45, *page 53*

Shutdowns or curtailment of work for managerial reasons • 5–46, *page 53*

## **Chapter 6**

**Performance Evaluation and Rating, page 54**

### *Section I*

*General, page 54*

Applicability • 6–1, *page 54*

Purpose • 6–2, *page 54*

Policy • 6–3, *page 54*

Administration of the Performance Evaluation System • 6–4, *page 54*

Performance standards • 6–5, *page 55*

Probationary period evaluations • 6–6, *page 56*

Annual performance ratings • 6–7, *page 56*

Performance rating records • 6–8, *page 56*

### *Section II*

*Unsatisfactory Performance Actions, page 56*

Communication • 6–9, *page 56*

Administration of unsatisfactory performance actions • 6–10, *page 56*

Adverse action records • 6–11, *page 57*

## **Chapter 7**

**Disciplinary Actions, page 58**

Introduction • 7–1, *page 58*

Coverage • 7–2, *page 58*

Principles • 7–3, *page 58*

Alternative discipline • 7–4, *page 59*

Types of disciplinary actions • 7–5, *page 59*

Oral admonitions • 7–6, *page 59*

Letters of reprimand • 7–7, *page 59*

Suspensions • 7–8, *page 60*

Separations for cause • 7–9, *page 60*

Records • 7–10, *page 61*

## **Chapter 8**

**Employee Grievances—General, page 64**

Coverage • 8–1, *page 64*

Exclusions • 8–2, *page 64*

NF and CC classification complaints • 8–3, *page 64*

Employee rights • 8–4, *page 64*

Representation • 8–5, *page 65*

Use of official time and resources • 8–6, *page 65*

## **Contents—Continued**

Discontinuance of consideration • 8-7, *page 65*  
Grievance procedure-first stage • 8-8, *page 66*  
Grievance procedures-second stage • 8-9, *page 66*  
Third stage review • 8-10, *page 66*  
Grievance file • 8-11, *page 67*  
Regulatory interpretation • 8-12, *page 67*  
Issues previously decided • 8-13, *page 67*

## **Chapter 9**

### **Incentive Awards, *page 67***

#### *Section I*

*General, page 67*

Principles • 9-1, *page 67*

Funding • 9-2, *page 68*

#### *Section II*

*Special Achievement Awards, page 68*

Special achievement awards • 9-3, *page 68*

Awards based on special acts or services • 9-4, *page 68*

Length of service awards • 9-5, *page 68*

Suggestion awards - general • 9-6, *page 69*

Suggestion awards • 9-7, *page 69*

Other incentives • 9-8, *page 69*

## **Chapter 10**

### **Business Based Actions, *page 70***

Coverage • 10-1, *page 70*

Advance planning and advance information • 10-2, *page 70*

Types of BBA • 10-3, *page 70*

Administration • 10-4, *page 70*

Transfer of function • 10-5, *page 71*

Dissolution of a NAFI • 10-6, *page 71*

Tenure following active military duty • 10-7, *page 71*

Effecting BBA • 10-8, *page 71*

Notices and notice periods • 10-9, *page 71*

Placement of employees • 10-10, *page 72*

Records • 10-11, *page 72*

Reemployment priority list • 10-12, *page 72*

## **Chapter 11**

### **Civilian Applicant and Employee Security Program, *page 73***

Program goal • 11-1, *page 73*

Coverage • 11-2, *page 73*

Suspension and removal • 11-3, *page 73*

Reassignment • 11-4, *page 73*

## **Chapter 12**

### **Employee Development, *page 74***

Concept • 12-1, *page 74*

Administration • 12-2, *page 74*

Funding • 12-3, *page 74*

## **Chapter 13**

### **Labor Management Relations, *page 75***

Administration • 13-1, *page 75*

## **Contents—Continued**

Cost containment • 13–2, *page 75*

Extension of negotiated provisions • 13–3, *page 75*

### **Chapter 14**

#### **Unemployment Compensation, *page 75***

##### *Section I*

*General, page 75*

Coverage • 14–1, *page 75*

Information coordination • 14–2, *page 75*

Notice to separated employees • 14–3, *page 75*

Request for wage and separation information • 14–4, *page 75*

Appeals • 14–5, *page 76*

##### *Section II*

*Reports, page 76*

Concept • 14–6, *page 76*

General report instructions • 14–7, *page 76*

### **Chapter 15**

#### **Employee Benefits, *page 77***

##### *Section I*

*General, page 77*

Eligibility to participate • 15–1, *page 77*

Interpretation • 15–2, *page 77*

Program manager • 15–3, *page 77*

##### *Section II*

*Group Medical, Dental and Life Insurance Plans, page 77*

General • 15–4, *page 77*

Plans • 15–5, *page 77*

Eligibility for medical, life, or dental insurance coverage • 15–6, *page 78*

Effective date • 15–7, *page 78*

Family members • 15–8, *page 78*

Open enrollment periods • 15–9, *page 78*

Changes in medical, life or dental insurance coverage • 15–10, *page 78*

Transfer of employment • 15–11, *page 78*

Termination of insurance • 15–12, *page 79*

Retiree Medical Program • 15–13, *page 79*

Contributions • 15–14, *page 79*

Health maintenance organizations • 15–15, *page 80*

##### *Section III*

*Retirement Plan for NAF Employees, page 80*

General • 15–16, *page 80*

Retirement plan administration • 15–17, *page 80*

Retirement plan eligibility • 15–18, *page 81*

Retirement plan participation • 15–19, *page 81*

Contributions • 15–20, *page 81*

Credited service • 15–21, *page 81*

Retirement benefit eligibility • 15–22, *page 82*

Retirement benefit formula • 15–23, *page 83*

Voluntary Early Retirement Authority (VERA) and Discontinued Service Retirement (DSR) • 15–24, *page 83*

Requesting retirement benefits • 15–25, *page 84*

Disability retirement and survivor benefits • 15–26, *page 84*

## **Contents—Continued**

Cost-of-living increases for retirees • 15–27, *page 85*  
Employment with another DOD NAFI • 15–28, *page 85*  
Reemployment of retirees • 15–29, *page 85*  
Payroll deductions • 15–30, *page 85*  
Retirement certificates and pins • 15–31, *page 85*  
Proof of Survival • 15–32, *page 85*

### *Section IV*

*US Army Nonappropriated Fund Employee 401(k) Savings Plan, page 85*  
General • 15–34, *page 85*  
Administration • 15–35, *page 86*  
Eligibility • 15–36, *page 86*  
Participation • 15–37, *page 86*  
Vesting • 15–38, *page 86*  
Contributions and investments • 15–39, *page 86*  
Disposition of accounts at separation • 15–40, *page 86*  
Loan Program • 15–41, *page 87*

## **Chapter 16**

### **Personnel Records, Files and Reports, page 87**

General • 16–1, *page 87*  
Personnel folder • 16–2, *page 87*  
What to keep in the personnel folder • 16–3, *page 88*  
Temporary and required records • 16–4, *page 88*  
Safeguarding personnel records • 16–5, *page 89*  
Disposition of the personnel folders • 16–6, *page 89*  
Defense related employment • 16–7, *page 90*

## **Chapter 17**

### **Management Controls and Audits, page 90**

Key management controls • 17–1, *page 90*  
Audits • 17–2, *page 90*

## **Appendixes**

- A.** References, *page 91*
- B.** Minimum Qualification Requirements, *page 96*
- C.** Standard Terms for Nature of Action, DA Form 3434, *page 97*
- D.** Management Control Evaluation Checklist, *page 101*

## **Table List**

Table 1–1: Minimum number of employees needed to administer the NAF Personnel Program, *page 6*  
Table 3–1: Creditable leave without pay, *page 25*  
Table 3–2: Duration of waiting periods for employees with regular schedules, *page 25*  
Table 3–3: Duration of waiting periods for FLX (as needed) employees, *page 25*  
Table 3–4: NAF CYPPP positions, *page 30*  
Table 7–1: Penalties for delinquency or misconduct<sup>1</sup>, *page 62*  
Table 9–1: Guide for intangible benefits suggestion awards, *page 69*  
Table 15–1: Conversion of sick leave for creditable service, *page 82*  
Table 15–2: Employee/employer contributions, *page 86*  
Table C–1: Standard terms for nature of action, *page 97*

## **Contents—Continued**

### **Figure List**

Figure 3–1: Format for FWS classification appeal, *page 37*

### **Glossary**

# Chapter 1

## Introduction

### Section I

#### General

#### 1-1. Purpose

This regulation establishes policies for the administration of a total personnel program for NAF employees of the Department of the Army (DA). Because NAF employees are not legally deemed to be employees of the Federal Government for the purposes of most laws administered by the Office of Personnel Management (OPM), the policies, procedures, and entitlements relating to employees paid from appropriated funds (APF) and those relating to NAF employees are different. There are, however, instances where legislation not applicable to NAF employees has been administratively adopted, through this regulation, for application to NAF employees. The objectives of this regulation are to—

- a. Achieve fair and equitable treatment of NAF employees through a uniform personnel system applicable Army-wide.
- b. Assist officials in recruiting, developing, and retaining the best qualified persons available.
- c. Provide guidance to supervisors and other officials in the technical aspects of personnel management.
- d. Provide more attractive career opportunities for employees.
- e. Inform employees of their obligations, rights, and privileges as NAF employees.
- f. Establish a uniform personnel record system that will provide reliable information on each employee's qualifications, employment history, education level and status as a DA NAF employee.
- g. Promote more efficient use of NAF positions in personnel administration.

#### 1-2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

#### 1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

#### 1-4. Responsibilities

- a. The Deputy Chief of Staff, G-1 and the Assistant G-1 for Civilian Personnel Policy are the policy proponents.
  - (1) By reason of title 5, section 2105, United States Code (5 USC 2105), NAF employees are not deemed employees of the Federal Government for purposes of most laws administered by the Office of Personnel Management (OPM). Employment by a Nonappropriated Fund Instrumentality (NAFI) does not confer civil service status. Pay rates for Federal Wage System (FWS) employees are established by authority of the OPM under the provisions of 5 USC 5343.
  - (2) Notwithstanding paragraph a(1) above, NAF employees covered by this regulation are considered employees, for the purposes of the Internal Revenue Code, 26 USC 3121(d)(2) and 26 USC 3401(c); therefore, their pay is subject to withholding for Federal Insurance Compensation Act (FICA), Federal income and other taxes.
  - (3) Employment of civilians in NAF service is governed by laws, Executive Orders and regulations issued by the Secretary of Defense, Department of the Army, and the US Office of Personnel Management (when NAF is specifically included) and other agencies, including the judicial and administrative interpretations given them by the courts and agencies such as the Federal Labor Relations Authority and Equal Employment Opportunity Commission.
  - (4) The Deputy Chief of Staff, G-1 or his/her designee must approve establishment of and appointment to NF-6 level executive positions.
- b. The Assistant G-1 for Civilian Personnel Policy will—
  - (1) Develop and establish the policies, regulations, and procedures for the NAF personnel program to support the objectives above.
  - (2) Provide Army wide guidance on new programs, reporting requirements and changes to existing policy for implementation.
  - (3) Conduct periodic CPAC/NAF-Civilian Personnel Unit (CPU) program evaluations.
  - (4) Approve exceptions for payment of travel and transportation of employees and family members, in excess of the Joint Travel Regulation (JTR) Volume 2, when it is clearly in the interest of the NAFI.
- c. Commanders of major commands (MACOMs) will—

*Note.* (For the purposes of this regulation, the US Army Community and Family Support Center (CFSC) is deemed a MACOM.)

- (1) Be responsible for staff direction and oversight of NAF employee programs and for directing the implementation of this regulation at all installations within their command.



- (2) Participate in the development of standard operating procedures (SOP) and instructions governing the administration of the position and pay management program for NAF employees.
  - (3) Review and evaluate the program within their commands to ensure conformance with prescribed regulations, standards, instructions, pay rates, and program goals.
  - (4) Adjudicate classification appeals.
  - (5) Promote equal employment opportunity (EEO) in every aspect of personnel policy including affirmative action goals.
  - (6) Review installation requests for interpretation of policy, clarification of procedures and requests for assistance; approve, disapprove or forward requests as appropriate. When forwarding:
    - (a) Document pertinent facts.
    - (b) Summarize facts and related requests.
    - (c) Present detailed MACOM views regarding the proposed or desired solution.
  - (7) Encourage and provide employee development training at all levels to meet present and anticipated needs.
  - (8) Support installation commanders in labor management relations by providing technical expertise and assistance to ensure timely and effective program execution.
  - (9) Review and monitor administration of the incentive awards program. Maintain accountability and integrity of Management Incentive Plans; ensure that individual performance goals are properly established and only positive results rewarded.
  - (10) Ensure overseas commanders provide logistical support and facilities, including Government quarters and family housing to eligible NAF employees, on the same basis with APF civilian employees. The principle of equivalent treatment for NAF employees and APF employees will be followed.
  - (11) Commander, CFSC is responsible for the day-to-day operation and administration of the NAF Central Referral Program (CRP), and the NAF Employee Benefits Program and is the proponent for Career Field 51 (MWR) of the Army Civilian Training, Education and Development System (ACTEDS).
- Note.* The Commander, CFSC has approval for five stand alone Army NAF personnel units: Hale Koa Hotel, Honolulu, Hawaii; Dragon Hill Lodge, Seoul, Korea; Armed Forces Recreation Center-Europe, Garmisch, Germany; Shades of Green on Disney World, Orlando, Florida; CFSC Headquarters, Alexandria, Virginia. The Assistant G-1 for Civilian Personnel Policy is responsible for oversight, review, assistance and program evaluation of these Army NAF personnel units. The authority to continue these units may be withdrawn, in whole or in part, if they do not operate in a responsible, efficient or effective manner. A request to establish or relocate a NAF personnel unit outside the Civilian Personnel Advisory Center (CPAC) requires the prior approval of the Assistant G-1 for Civilian Personnel Policy.
- d. Installation commanders will—
- Note.* (All references to installation commander can be applied to the garrison commander, or equivalent position, when full responsibility for the NAF program has been officially delegated by the next higher level of the chain of command)
- (1) Implement this regulation, for all installation NAF employees.
  - (2) Ensure compliance with AR 600–8–1 for civilian NAF employees. Ensure official notification of the next of kin is made in the same manner as for APF civilian employees.
  - (3) Ensure implementation of the requirement to recruit for regular full time positions, NF–4 level and above, through the Central Referral Program (CRP).
  - (4) Implement position classification, position management, pay entitlement regulations, standards, procedures, instructions, and act on the initial stage of classification complaints from employees within their command.
  - (5) Establish policy in those areas of pay administration that authorize discretionary authority.
  - (6) As a designated host installation for wage surveys:
    - (a) Provide administrative, technical, and logistic support for the conduct of wage surveys.
    - (b) Authorize NAF employee representatives to participate, without loss of pay or charge to leave, in hearings conducted by the local wage survey committee.
    - (c) Ensure that employees participating in wage surveys as data collectors are paid their basic rate of pay for all time spent in performance of that duty and are reimbursed for necessary travel costs.
  - (7) Provide incentive awards program leadership and support with maximum publicity for all installation award ceremonies.
  - (8) Ensure that training opportunities are made available to all eligible and/or interested employees.
  - (9) Establish a cooperative labor management relations program and ensure that the labor management relations program is implemented in accordance with DoD 1400.25–M, Chapter 700, Subchapter 711.
  - (10) Promote EEO in every aspect of personnel policy and practice in the employment, development, and advancement of employees. Commanders will support EEO and affirmative action programs and goals and ensure personnel actions are not based on discriminatory practices and actions. Appropriate disciplinary action will be taken against individuals responsible for discriminatory acts.
  - (11) Establish local policy for the administration of the pay band system.
  - (12) Ensure activities with employees paid from NAF provide funding to cover the cost of NAF personnel who

provide personnel administration services. NAFIs will provide funds sufficient for the CPAC to maintain a NAF-CPU workforce at a level consistent with the Army target service ratio currently in effect.

(13) Support the ACTEDS Plan for Career Field 51 (MWR).

(14) Support, fund and publicize the employee benefit programs and encourage employees to participate.

(15) Exercise approval authority to grant a recruiting bonus, relocation bonus or a retention allowance. This authority may be re-delegated to the Senior NAFI Installation Management Official.

*e. Supervisors will—*

(1) Assign duties and responsibilities to employees in a manner to ensure efficient and timely accomplishment of missions.

(2) Support the CRP; inform all eligible employees that registration is mandatory.

(3) Use standardized position guides for pay band positions. Review job descriptions and initiate required changes through the servicing CPAC/NAF-CPU.

(4) Arrange appropriate workforce training.

(5) Approve or recommend approval of leave.

(6) Recommend personnel actions by initiating DA Form 4017 (Request for Personnel Action-Nonappropriated Fund Instrumentality).

(7) Provide progressive and constructive leadership.

(8) Ensure all employees understand what is expected of them, to whom they are responsible and their work relationship with co-workers.

(9) Continually evaluate employee performance and provide feedback to the employee regularly and complete a formal performance evaluation when required, in accordance with chapter 6.

(10) Promote understanding of and participation in the incentive awards program.

(11) Complete Department of Labor Form LS-202 (Employer's First Report of Injury or Occupational Illness) immediately upon notification of an employee on-the-job injury or death, according to AR 215-1, chapter 14.

(12) Support the employee benefits programs and allow employees to attend open season briefings and complete related paper work.

(13) Promote and support EEO policy and affirmative action goals.

*f. Senior NAFI Installation Management Officials will—*

(1) Implement and enforce this regulation and recommend personnel actions.

(2) Determine that personnel actions taken per this regulation have been authenticated by the CPAC/NAF-CPU or a designated specialist on the CPAC staff (per this regulation).

(3) Review for final action performance evaluations and related justification recommended by first line supervisors.

(4) Promote understanding of and participation in the incentive awards program.

(5) Assist the commander in establishment of installation policy and monitoring administration of the pay band system.

(6) Fully support the EEO program and policies.

(7) On an annual basis, provide the CPAC/NAF-CPU with funding to cover the cost of the NAF-CPU staffed at the servicing ratios in effect at the time.

(8) Provide administrative support to the employee benefits program.

*g. The CPAC Directors will—*

(1) Implement policies and procedures under this regulation and ensure compliance through oversight review.

(2) Provide administrative staff supervision of the operations of the NAF-CPU.

(3) Act on behalf of the commander, under delegated authority, in appointing NAF employees and authenticating personnel actions. This authority may be further delegated only to the personnel specialist chief/leader of the NAF-CPU or a personnel specialist on the CPAC staff.

(4) Provide needed technical direction and staff guidance to the NAF-CPU to ensure that the NAF personnel program is administered in accordance with this regulation.

(5) Provide assistance to the NAF-CPU and NAFI managers in the conduct of labor relations and negotiation.

(6) Ensure the provisions of AR 690-11 pertaining to mobilization planning are applied to NAF employees when appropriate.

*h. The NAF-CPU or staff will—*

(1) Be organizationally located within the CPAC and have personnel administration responsibility to "act for" the commander. This connotes responsibility to—

(a) Produce, authenticate and maintain records of actions taken by or on behalf of their commanders and managers.

(b) Accomplish on the Commander's behalf, the administrative aspects of programs designed to classify positions, to systematically identify candidates for job selection and to appoint, assign, compensate, train, develop, reward, discipline and separate NAF employees.

(2) Ensure that all Reemployment Priority List (RPL) applicants are considered in accordance with the priority program.

(3) Perform compliance review (when recruitment has been delegated to activity managers by the commander) for selection preference and completion of pre-employment requirements, prior to selection notification and establishment of an entrance on duty date.

(4) Notify all eligible employees of the requirement to register in the CRP. Forward the registration applications and copies of all subsequent pay actions to update the CRP.

(5) Ensure determinations of the correct series for pay band positions and compliance with the Fair Labor Standards Act (FLSA) exempt/nonexempt status determination requirements for all positions.

(6) Administer the performance evaluation program and provide notification to supervisors when annual evaluations are due.

(7) Oversee and monitor Business Based Actions (BBAs).

(8) Administer the position and pay management program.

(9) Ensure establishment, maintenance, custody and disposition of personnel records, to include the Automated Civilian Personnel System.

(10) Conduct audit or review of all personnel actions to ensure compliance with this regulation prior to signing as the approval official.

(11) Conduct an annual audit or review of 10% of positions.

(12) Conduct an annual formal audit or review of 10% of pay actions.

(13) Provide advice and guidance to management and employees on personnel administration, including the processing of disciplinary actions, classification appeals, and grievances, in coordination with the servicing legal office.

(14) Conduct annual training in development of supervisory responsibilities and skills. Conduct or schedule training for the workforce to ensure understanding of pay systems and incentive awards program.

(15) Monitor the worker's compensation program to ensure proper reporting of on-the-job injuries in accordance with AR 215-1, chapter 14.

(16) Assist management in the conduct of labor relations in coordination with the labor counselor.

(17) Upon notification of the death of an employee, process within 3 work days, all appropriate forms that will assist the beneficiaries to receive any benefits available.

(18) Provide administrative support to and counsel employees concerning the benefits programs.

(19) Administer the commander's local pay policies. Recommend changes and provide advice to the commander on local options available in the system.

(20) Assist supervisors with the administration of the incentive awards program to ensure the program is uniformly administered within the NAFI. Establish and maintain incentive awards records to meet reporting requirements.

(21) Maintain statistical information and records on incentive awards, disciplinary actions, employee performance evaluations and BBAs within the installation for use in program evaluation and required reports.

(22) Provide each employee who separates, or is placed in a furlough status for more than 7 days, a SF Form 8 (Notice to Federal Employee about Unemployment Insurance) indicating possible entitlement to unemployment compensation.

(23) Provide information to management on EEO policy and affirmative action goals.

i. Employees are to—

(1) Give a full day's work for a full day's pay.

(2) Report on time, ready, willing and able to perform their duties.

(3) Cooperate with those who direct their work.

(4) Observe the spirit and the letter of laws and regulations governing official conduct.

(5) Review all personnel and pay actions (to include the biweekly earnings and leave statement) upon receipt and inform management or CPAC/NAF-CPU of any discrepancies.

(6) Register in the CRP upon notification of eligibility.

## **1-5. Operations**

a. The NAF Personnel Program will be consistent with laws, regulations and published Army policies to maintain an effective NAF work force.

b. Employees have the right, without interference, coercion, restraint, or reprisal, to join or refrain from joining any lawful labor organization or employee association. When employees are represented by a recognized labor organization, management will strive to maintain a relationship of mutual respect and trust.

c. Where labor agreements differ from the requirements in this regulation, and the regulatory requirements are not based on a compelling need, the agreement will prevail during the term of the agreement absent a waiver.

d. Employees paid from NAFs will operate programs financed from NAFs. They will perform jobs that do not

require military incumbents by reasons of law, training, security, maintenance of morale, or discipline, rotation or combat readiness.

*e.* NAF employees are essential to the operation of the military establishment. Their standing as individual employees will be comparable to the standing enjoyed by APF civilian employees except as limited by law and by this regulation.

*f.* Each overseas commander will provide logistical support and facilities, including Government quarters and family housing, to eligible NAF personnel on an equitable basis with APF civilian employees. The principle of equal treatment for NAF personnel with APF personnel will be followed.

*g.* Employees will be placed in jobs for which they are qualified. Selections to fill positions within employment priorities will be made impartially on the basis of merit and qualification.

*h.* Supervisors and managers are required to participate in the Civilian Leader Development Core courses. Training necessary to ensure improved performance and individual development will be provided to the extent that resources and operations permit.

*i.* Employee work performance will be evaluated fairly and objectively on a continuing basis and the results of such evaluation will be discussed periodically with the employee.

*j.* Within applicable compensation schedules, NAF employees will receive similar pay treatment for work of similar difficulty and responsibility.

*k.* Working conditions will be made as safe and healthful as possible.

*l.* Employees and labor organizations officially recognized by DA will be informed in advance of plans and policies affecting the employees.

*m.* Employees will be encouraged to express themselves concerning improvement of work methods and working conditions.

*n.* Any employee having a grievance will be accorded a fair and prompt discussion with the supervisor concerned and, failing prompt and satisfactory adjustment, will have the right to pursue the matter under the grievance procedures of chapter 8 or, when required, under the applicable negotiated grievance procedure. In presenting a grievance, employees will be free from interference, restraint, or reprisal and may be accompanied and assisted by a representative as provided for in Chapter 8.

*o.* Employees will have the right to discuss their problems with one or more of the following:

- (1) Representatives of their servicing CPAC/NAF-CPU.
- (2) An EEO officer or counselor.
- (3) A labor organization representative (if the employee is in the bargaining unit).
- (4) A person designated to provide guidance on questions of conflict of interest.
- (5) A supervisor or management official including one of higher rank or level than the immediate supervisor.
- (6) Employee Assistance Program (EAP) Counselor.

*p.* Employees will have the right to participate or not participate in fund-raising campaigns and purchase of US Savings Bonds without compulsion, coercion or reprisal.

*q.* Employees will be treated with full regard for their dignity as individuals and no distinctions as to trustworthiness of employees will be made on the basis of their pay levels or grades.

*r.* To the maximum extent possible, in accordance with international agreements, and preferences specified in this regulation, positions in foreign areas will be filled by family members of military service members or civilian employees of DoD components that are stationed in the area.

*s.* OPM issuances and DA civilian personnel regulations do not apply to NAF employees unless explicitly stated therein. The provisions of laws, Executive Orders (EO), and DoD directives applicable to NAF employees are reflected in this regulation, including appropriate citations and references to applicable OPM procedures and requirements.

*t.* A NAF employee may be assigned as the supervisor of APF employees and military personnel except as provided by para 2-18c.

*u.* The Portability of Benefits for Nonappropriated Fund Employees Act of 1990 PL 101-508, as amended by the Defense Authorization Act for Fiscal Year 1996, PL 104-106, applies to employees who move between DoD NAF and APF employment systems. Specific references are included within appropriate chapters throughout this regulation. Employees vested in a retirement system may elect to retain coverage in that system. Such election will be documented and made part of the SF 66-C (Merged Records Personnel Folder). (See chap 15 for details.)

## **1-6. Exception to policy**

Request for policy determination, for interpretation of this regulation and for exceptions to established policies, will be directed through command channels to Department of the Army, Deputy Chief of Staff, G-1, ATTN: DAPE-CP-NAF, 200 Stovall Street, Suite 4S23, Alexandria, VA 22332-0300.

## **1-7. Whistleblower protection**

*a.* NAF employees and applicants will be free from reprisal in making protected disclosures, and the confidentiality

of employees and applicants making such disclosures will be protected unless the DoD Inspector General (IG) determines that disclosure of their identity is necessary to conduct the investigation.

b. Any NAF employee or applicant for a position who reasonably believes a personnel action (including failure to take such action) was taken as reprisal for making a protected disclosure may file a complaint directly with the DoD IG. Such a complaint may be filed by calling the DoD Hotline toll-free number (800) 424-9098, or (703) 604-5080 or DSN 664-5080, or by letter addressed to DoD Hotline, the Pentagon, Washington, DC 20301-1900.

c. Activities must publicize the procedures for filing a complaint.

## **Section II**

### **Civilian Personnel Administration at Installation Level**

#### **1-8. Introduction**

This section provides for the uniform and efficient administration of the personnel program for all NAF civilians and off-duty enlisted military (ODM) employees. NAF local nationals (LN) or third country nationals (TCN) employed in foreign areas will be administered in accordance with country-to-country agreements and treaties.

#### **1-9. Organization**

a. A NAF-CPU or staff will be established on each installation having NAF employees. The CPU will report directly to the CPAC Director or to a designated member of his/her staff. For staffing requirements, see para 1-11b and table 1-1.

b. All personnel folders for employees of all NAFIs on an installation will be the responsibility of the NAF-CPU. Personnel actions for all NAF employees on the installation will be effected by employees of the NAF-CPU.

#### **1-10. Administration**

a. The servicing CPAC will—

- (1) Implement policies and procedures under this regulation.
- (2) Ensure that NAF personnel positions are properly authorized and assigned to the appropriate series and pay level.
- (3) Provide administrative staff supervision of the operations of the CPU.
- (4) Act for the commander in appointing NAF employees, classifying positions and authenticating personnel actions. This authority may be further delegated to the personnel specialist, chief/leader of the NAF-CPU or another personnel specialist on the CPAC staff.
- (5) Provide technical direction and staff guidance to the NAF-CPU or staff to ensure that the NAF personnel program is administered in accordance with this regulation.

b. The NAF-CPU will perform the following functions:

- (1) Recruitment and placement for all installation NAF positions. Conduct compliance review for selection preference when recruitment authority is delegated to activity managers in accordance with paragraph 2-5.
- (2) Position classification.
- (3) Compliance review and Fair Labor Standards Act (FLSA) Exempt/Nonexempt determinations.
- (4) The performance evaluation program.
- (5) Oversight for business based actions (BBA).
- (6) Pay management.
- (7) Establishment, maintenance, and custody of personnel records to include the Automated Army Civilian Personnel System.
- (8) Advice and guidance on personnel administration, including the processing of disciplinary actions, classification appeals, and grievances.
- (9) Information to management on established NAF personnel policies, including employee rights and benefits.
- (10) Training of employees in supervisory responsibilities and skills.
- (11) Assurance of proper reporting of on-the-job injuries in accordance with AR 215-1, chapter 14.
- (12) Assistance to management in the conduct of labor relations, in coordination with the servicing legal office.
- (13) Administrative support for the employee benefits program.

#### **1-11. Staffing of NAF-CPU**

a. The implementation of an effective and responsible personnel program is essential to ensure compliance with legal requirements and the efficient and economical operation of the NAFIs. This requires that competent individuals be assigned to the NAF-CPU, each of whom must meet the applicable minimum qualification requirements.

b. Table 1-1 lists the minimum number of employees paid from NAFs needed to administer the NAF Personnel Program. Limitation of NAF resources will not permit the employment of a NAF personnel specialist in each of the specialized areas of personnel administration. The number and types of the NAF positions in the NAF-CPU and the utilization of the employees will be determined by the size of the serviced NAF workforce. When the NAF-CPU has

responsibility for the entire NAF personnel program, the number of employees required will be greater than the minimums listed below. Staffing will be within the current DoD established target serviced ratio.

**Table 1-1**  
**Minimum number of employees needed to administer the NAF Personnel Program**

Employees Served	Personnel Specialist	Clerical Support
Up to 125	1	1
126-250	1	2
251-375	2	3
376-500	2	4
501-625	3	4
626-775	3	5
776-1000	4	5
1001-1300	4	6

c. Within available resources, the CPAC Director and staff members paid from APF are authorized to perform the following:

(1) Command functions, including supervision of the NAF-CPU, technical advice to NAFI managers, and audit and review of NAF personnel actions.

(2) NAF labor-management relation functions required to be performed by 5 USC Chapter 71.

(3) Administration of the EEO Program as it pertains to personnel office responsibilities.

(4) Complete administration of the NAF Personnel Program when the number of employee serviced is so small that no additional incremental APF costs are thereby incurred.

### **1-12. Funding**

The employee salary costs for the NAF-CPU will be shared on a prorated basis by the serviced NAFIs. Installation commanders will approve and assess the amounts to be paid by each NAFI for the salary and associated administrative costs for the NAF-CPU.

### **1-13. Records**

a. All official personnel folders (OPF) and records, regardless of where the NAF employees are assigned, will be maintained by the NAF-CPU and will be under the jurisdiction of the CPAC.

b. Records must be kept in a secure room or locked cabinet to prevent access by anyone other than official users and the individual concerned. Employees will have the right to review their record and to add to or amend the record to correct any inaccuracy.

c. In case of a dispute, the matter will be resolved in accordance with AR 340-21.

## **Section III**

### **The NAF Casualty System**

#### **1-14. General**

a. This section provides general information when an employee dies while—

(1) In an official TDY status away from their duty station, or

(2) Assigned at an overseas duty station or in transit thereto or therefrom.

b. All benefits authorized in accordance with AR 600-8-1 for the care, preparation and disposition of remains of deceased civilian employees of the Army paid from appropriated funds will be accorded equally to nonappropriated fund employees.

#### **1-15. Operational guidance**

a. When a civilian NAF employee dies while covered by this section, the activity head will telephone the death notification to the installation/MACOM casualty office.

b. Official notification of the next of kin must be made in the same manner as for APF employees. Prompt notification is essential.

c. If the employee was participating in any of the US Army NAF benefits programs, the NAF-CPU will process the appropriate forms for the beneficiaries within 3 workdays.

d. If the death is work related, the supervisor must complete Form LS-202 (Employer's First Report of Injury) in accordance with AR 215-1, chapter 14.

e. The servicing NAF-CPU will process a DA Form 3434 (Notification of Personnel Action—Nonappropriated Fund Employee) with nature of action (NOA) Separation–Death. Item 25 must include the full name, mailing address and social security number of the individual designated as beneficiary for unpaid compensation on DA Form 5521 (Record of Emergency Data and Designation of Beneficiary for Unpaid Compensation of Deceased NAF Employee).

## **1–16. Funding**

Expenses incurred in connection with items and benefits furnished by the Government on a reimbursable basis will be billed to and paid by the employing NAFI.

## **1–17. Regulatory guidance**

For more detailed information refer to AR 600–8–1.

# **Chapter 2 Employment**

## **2–1. Introduction**

a. When filling newly established or vacated positions, the qualifications of all applicants will be reviewed and evaluated.

(1) OPM's Qualification Standards for General Schedule Positions must be used to establish minimum qualifications for pay band positions that have a positive education requirement or when licenses or certification are required. OPM Handbook X-118C Job Qualification System for Trades and Labor Occupations serves as a guide in establishing qualifications required for FWS positions. Additional requirements determining length of experience may be established as appropriate. Qualification requirements for pay band positions without a positive education requirement will be developed by management with the advice and review of the CPAC/NAF-CPU to ensure consistency within serviced activities.

(2) The Care-giving Personnel Pay Program (CPPP) establishes qualification requirements for child care positions (See also app B). These requirements have been extended to youth services and are identified in the Child Care and Youth Personnel Pay Program (CYPPP).

(3) Installation commanders are authorized to modify, except for CYPPP positions and positive education requirements, qualification standards for reassignments, voluntary changes to lower grades/levels, transfers and reinstatements to the same or lower grade level when an employee's background includes experience or training that would indicate successful job performance. This authority is an exception to normal procedures and is designed to eliminate unnecessary rigidity in evaluating qualifications for current employees affected by a management directed reorganization, Base Realignment and Closure (BRAC) or Business Based Actions (BBA). This authority should only be used when there is a reasonable likelihood that the employee will successfully make the transition to the new position, and developmental support is provided to assist the employee.

b. Selection for any position will be based solely on qualifications. A position may not be designated as a position to be filled only by off duty military (ODM) or only by civilians. There will be no discrimination in recruitment. Persons with disabilities, may be employed when they can perform the essential functions of the position in question with or without reasonable accommodation, without endangering the health and safety of themselves or others.

c. The provisions of AR 690–12, Equal Employment Opportunity and Affirmative Action, will be strictly observed with respect to NAF employees and applicants for NAF employment.

d. The employment, appointment, or promotion of relatives of commissioned officers, noncommissioned officers, and civilian officials who hold administrative positions where they exercise jurisdiction or control over the employing NAFI, or any organizational unit thereof, is prohibited. Further, such officials may not advocate a relative's appointment, employment, promotion, or advancement anywhere within DoD. This policy does not prohibit the exercise of reemployment rights after military service as provided by the Military Selective Service Act of 1967, as amended.

(1) Relatives of military personnel and civilians assigned to or employed by the NAFI may be employed provided there is no supervisory relationship nor or a situation where the appearance of favored treatment, conflict of interest, or collusion may occur.

(2) For purposes of interpretation, "relative" includes: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandparents, father-in-law, mother-in-law, sister-in-law, son-in-law, daughter-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

(3) This policy is not intended to prohibit employment of a relative of one NAFI manager by the manager of

another NAFI, provided the relative's employment was not advocated by the related administrator. For example, a relative of the Director of Community Recreation at an installation may be employed by a club or by the Army and Air Force Exchange Service (AAFES) on the same installation. Installation commanders may make exceptions to this prohibition in order to make FLX emergency hire appointments in the event of emergencies resulting from natural disasters or similar unforeseen circumstances. Justification must include a statement of the effort made to recruit and a statement that no other eligibles are available.

*e.* Conversion of a NAF position from civilian to military incumbency may only be made in accordance with AR 570-4.

*f.* NAF employees have reemployment rights in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, title 38, chapter 43. If questions arise regarding reemployment rights under USERRA consult the installation's servicing legal office.

*g.* Employment of civilian personnel by NAFIs authorized by this regulation will:

- (1) Comply with applicable Federal labor laws.
- (2) Conform to the labor laws of the State or US territory in which the employing NAFI is located, when applicable.
- (3) Conform to the provisions of international agreements between the US and foreign countries, as appropriate.

*h.* Dual pay is as follows:

(1) By reason of the provisions of 5 USC 5531(2) and 5533(a), a NAF employee is subject to the prohibition against dual pay and employment in the Federal Service. A NAF civilian employee is not entitled to receive basic pay from more than one position, whether an APF or NAF position, for more than an aggregate of 40 hours of work in 1 calendar week (Sunday through Saturday) (see para 3-29). Installation commanders may approve exceptions to this requirement in special circumstances when personal services otherwise cannot be readily obtained for the position in question. Since the restriction is statutory (5 USC 5533), exceptions must meet the following requirements:

(a) The position to be filled has been vacant for some time and recruiting has been conducted continuously during that time.

(b) All logical recruiting sources have been tapped and the position has been publicized through all appropriate media, including paid advertising when appropriate.

(c) Satisfactory candidates other than Federal employees have not been located. Records of exceptions must be retained and be available for audit for a 2-year period: a copy of the exception will be provided to the Deputy Chief of Staff, G-1 ATTN: DAPE-CP-NAF, within 30 days of approval.

(2) By reason of the provision of 5 USC 5534a, a member of the uniformed service who is on terminal leave pending separation or release from active duty under honorable conditions, may accept and hold any NAF position as a civilian in compliance with the provisions of this regulation.

*i.* No employee may serve concurrently in more than one Army NAF RPT position. This prohibition does not preclude the use of multiple appointments e.g., one RPT and one or more FLX appointments provided the total number of hours worked each week does not exceed 40.

*j.* Consistent with Status of Forces Agreements (SOFA) and country-to-country agreements and treaties, vacancies in foreign countries which are filled competitively will, in the absence of Spouse Employment Preference (SEP) eligible or involuntarily separated military (ISM) members as defined in paragraphs 2-11, and 2-12 be filled by qualified family members of either military personnel or US citizen civilian employees of any Federal agency who are assigned in the country. Such positions will not be filled by non-family member US citizens until it has been determined, after positive recruitment efforts, that no qualified family members are available. This policy will not apply when host nation political or economic conditions require maintenance of the existing LN/US citizen employment balance.

*k.* No maximum age requirement may be established for entrance into NAF positions. This applies to promotions and reassignments as well as to appointments.

*l.* Political activity guidelines are as follows:

(1) The principles of 5 U.S.C 7324 relating to political activity of government employees are administratively extended to NAF employees to the extent that no employee shall:

(a) Use official authority or influence for the purpose of interfering with an election or affecting its results.

(b) Take any active part in a partisan political campaign.

(2) NAFI employees retain the right to vote as they choose; express their opinions on all political subjects and candidates; and participate in nonpartisan political activity. Also, an employee may hold a State, territorial, and local office if it does not conflict with duties, laws, or executive orders. No inquiries shall be made concerning the political affiliation of an employee or applicant for employment, and any disclosures of political affiliation shall not be considered in the employment process of the employee or applicant for employment.

*m.* Commanders may authorize payment of permanent change of duty station (PCS) costs for regular employees. A copy of all PCS orders for employees returning from an OCONUS assignment must be sent to CFSC, P.O Box 107, Arlington, VA 22210-0107 for appropriate action.

*n.* In overseas areas full-time NAF employees who are authorized to transport dependents to or from an overseas area at government expense and are provided an allowance for living quarters in that area are authorized space



required, tuition-free enrollment of family members in schools of the Department of Defense Education Activity (DODEA) in accordance with 20 U.S.C., chapter 25A. Family members of locally hired regular employees may attend on a space-available basis.

*o.* The payment of allowances and differentials to NAF employees in overseas areas shall be consistent with that provided appropriated fund employees and comply with DOD 1400.25–M, Chapter 1200, subchapter 1250, “Overseas Allowances and Differentials.”

## **2–2. Appointment categories**

### *a. Regular.*

(1) A regular employee serves in a continuing position on a scheduled basis. Regular employees are further categorized as regular full-time (RFT) if the regular workweek is 40 hours; or, regular part-time (RPT) if the workweek is from 20 to 39 hours. The minimum workweek for a RPT employee is 20 hours.

(2) To meet special work requirements that will last in excess of one year, but are known to be non-permanent and will cease to be needed upon completion of a project or a projected period of time, a position may be designated as Regular Limited Tenure (RLT). This term is added only to a regular appointment as either RFT-Limited Tenure, or RPT-Limited Tenure. A clarifying remark as to the expected expiration of the appointment will be included on the appointment action (see app C). RLT employees have the same entitlement to leave and benefits as do all regular employees and they do not serve a probationary period. Some activities are open to provide seasonal services at the same time each year. These activities may identify positions not needed for the entire year as “seasonal positions” (regular full time seasonal (RFS), regular part-time seasonal (RPS)); these employees will be placed in a non-duty, non-pay status during the periods when their services are not needed. If the position will not last at least 6 months, a seasonal appointment may not be used.

*b. Flexible.* In Army NAFI’s, a flexible (FLX) employee serves in a continuing position on a scheduled or an as-needed basis. There is no upper limit to the number of hours a flexible employee may work (subject to overtime obligations and work scheduling requirements.) A time limitation of less than one year may be made to a FLX appointment by including a not to exceed (NTE) date in item 25 of DA Form 3434. FLX employees who are guaranteed a specific number of hours each week will have those hours indicated in item 25 of DA Form 3434.

## **2–3. Filling positions**

*a.* Positions will be filled by mandatory placement under the following conditions:

- (1) Reemployment from the installation reemployment priority list. (See chap 10.)
- (2) Reemployment of a former employee having statutory reemployment rights following military service.
- (3) Appointment of the incumbent of a position or function transferred from APF, contract operation, or a private association, to NAF.

*b.* Positions may be filled by any of the following methods in accordance with the provisions in this regulation:

- (1) Promotion from among DA NAF employees, including temporary promotions.
- (2) Repromoting an employee that was reduced in grade/level through no fault of his/her own. Repromotion may be on a non-competitive basis.
- (3) Appointment from among applicants for a position in response to vacancy announcements.
- (4) An employee who has completed the probationary period may be transferred from one Army NAFI to a position in another Army NAFI on a non-competitive basis, provided:
  - (a) Both positions are comparable in grade, or pay level and appointment category.
  - (b) The employee is qualified for the position, and
  - (c) The transfer is voluntarily requested by the employee.
- (5) Reassignment within a NAFI of an employee to another position that is comparable in grade, or pay level. Employees may be reassigned non-competitively.

(6) Reinstatement of a former Army NAF employee whose separation was not for cause provided the employee is reinstated to the same or equivalent position, or a position with a lower rate of pay, within a 3-year period from the date of separation. This action may be taken non-competitively, except that, if the position is at a higher grade/level the action will be competitive.

(7) Details (no change in pay or employment category).

(a) Details to higher grade/level positions or to a set of duties will not exceed 60 days. A set of duties must be assigned a title, series and grade/level within the 60-day period. These positions must be filled through competitive announcements within the 60-day period. Employees retained in a detail at a higher grade/level in excess of 60 days will be paid retroactively at the grade level of the position to which detailed effective the 61st day of the detail. Upon discovery of the an improper detail the employee must be returned to the position occupied immediately prior to the detail, unless the employee was selected for the higher grade/level position under competitive procedures.

(b) Details to positions at the same or lower grade/level will not exceed one year.

(c) Details in excess of 30 days regardless of grade/level must be documented on DA Form 4017 together with a set

of duties or a job description/position guide. The DA Form 4017 with attachments is filed on the right side of the OPF as a permanent record.

(8) An employee may be promoted to the highest grade/level, previously held provided it was held for at least 12 consecutive months on a permanent basis with an Army NAF or DoD APF if the position converted over to NAF, and, provided the employee was not demoted or separated from that position because of deficiencies in performance or "for cause" reasons. Action may be taken on a non-competitive basis.

(9) Reemployment of a former NAF employee who has had a break in service of more than 3 years.

c. For recurring positions, such as summer hires, after an initial competitive placement, an individual may be reinstated/reemployed non-competitively in subsequent years.

d. In emergencies where delay in filling a position would cause serious disruption to the operations work, action may be taken to fill a position non-competitively for a period not longer than 30 days. Such an emergency hire flexible position must be fully justified and have the approval of the installation commander. By the end of the 30-day period, the appointment must be terminated. In unusual circumstances, the installation commander may approve an extension not to exceed 30 additional days. Employees appointed on an emergency basis may not be non-competitively converted to another position.

e. Non-competitive procedures may be used in changing a FLX employee to RPT or RFT, or in changing a RPT employee to RFT. Such a change can only be made when the employee remains in the same position with no change in duties and at the same grade/level.

f. Under certain conditions, gratuitous services may be accepted in support of NAFI activities. Gratuitous services, however, may not be accepted in lieu of establishing or filling a NAF employee position, or if the task for which they are offered would otherwise be performed by a NAF employee. (See AR 215-1, para 7-40).

## **2-4. Preliminary actions and recruitment**

a. The following actions will be completed prior to initiating action to fill a position:

(1) The position is described in writing and properly appraised for grade/level.

(2) Minimum qualification requirements are established in writing and in accordance with the provisions of paragraph 2-1a.

(3) The qualification requirements shall not be written to restrict competition to one individual or group of individuals.

(4) The position is listed on an approved DA Form 5556-E (Personnel Requirements Document (PRD)) and is or will be vacant. (See AR 215-1, para 9-4.) Placement of a position on the PRD indicates approval and funding availability. Local procedures may require verification of fund availability prior to fill action.

b. Vacancies will be publicized for a minimum of three workdays. Vacancy announcements normally will be publicized installation-wide. If any specified area of publicity does not provide sufficient eligible candidates, the recruitment area may be extended.

c. Positions with high turnover rates may be filled through continuous vacancy announcements. The vacancy announcement should specify no closing date.

d. No installation publicity is required for positions that are:

(1) Filled through the NAF Central Referral Program.

(2) Filled by a noncompetitive action. (See paras 2-3, and 2-35.)

e. In addition to publicity within Army installations, a vacancy may be publicized by advertising in newspapers, professional journals, or through local radio announcements. NAFs may not be committed or expended on recruitment unless authorized in advance, in writing, by the NAFI manager having the vacancy.

f. For positions that are required to be filled through the Central Referral Program, see this chapter.

g. All vacancy announcements will contain the following:

(1) Title, series, and grade/pay level and pay.

(2) Area of consideration (must always include SEP and ISMP for FWS, CC and NF-3 and below positions; for overseas positions, must always include family members in foreign areas).

(3) Location of position.

(4) Work schedule; appointment category; eligibility for benefits; differential information if applicable.

(5) Brief statement of duties, not the job description/position guide.

(6) Brief statement of qualifications required, including length, type, and level of experience.

(7) Closing date; or "no closing date."

(8) Where to apply.

(9) How to apply (including a statement that an applicant may apply using a resume or a DA Form 3433).

(10) For CC positions, instructions that a completed DA Form 3433-2 must accompany the application.

(11) Statement that all applicants must complete a DA Form 3433-1 (Supplemental Application Form) as a condition of employment.

(12) A statement that the position has potential for promotion if such is the case.

(13) Statement that PCS costs will or will not be paid for regular positions NF-3 and above, not to exceed JTR, Volume 2.

(14) Statement that bonuses and/or allowances are authorized, if applicable.

(15) List the required investigation or clearance required.

(16) List requirements for medical examinations or other conditions of employment.

(17) Include SEP statement as follow: "Refusal of a military spouse to participate in established recruitment procedures (e.g. interview, K.S.A's where required, etc.) is considered a declination of employment and is a basis for termination of SEP entitlement for the current PCS of the sponsor.

(18) Statement "Department of the Army Nonappropriated Fund Instrumentalities are Equal Opportunity Employers."

(19) Statement "Department of the Army provides reasonable accommodation to applicants with disabilities. If you need a reasonable accommodation for any part of the application and hiring process, notify the servicing NAF civilian personnel unit. Requests for reasonable accommodation are made on a case-by-case basis."

## **2-5. Recruitment authority**

*a.* Commanders may delegate direct recruitment authority to any level of management deemed appropriate. This authority applies to positions at NF levels 1 to 3, CC levels 1 and 2, and all FWS positions.

*b.* When managers and supervisors are authorized direct recruitment authority they may use a system for publicizing vacancies that meets the local needs, such as notices on activity bulletin boards or in installation media. Prior to final selection the managers must determine from the CPAC/NAF-CPU if there are eligible qualified SEP or ISM candidates who must be selected for the particular position. Upon compliance with all the preference requirements, the selection may be finalized and the CPAC/NAF-CPU notified of the selection by a DA Form 4985 (NAF Referral and Selection List). The individual will then be notified of selection and in-processed by the CPAC/NAF-CPU prior to reporting for duty.

*c.* Regardless of the level to which recruitment authority has been delegated, all of the requirements pertaining to EEO will be met.

## **2-6. Processing applications**

*a.* Application for NAF positions may be made by submitting a resume or completing DA Form 3433 (Optional Application for Nonappropriated Fund Employment). Once an applicant is selected, the selectee will complete DA Form 3433-1 (Supplemental Employment Application Form). For positions that require continuous recruitment, applications may be accepted at any time, and vacancies may be filled promptly from the resulting application file using the procedures outlined in paragraph 2-7.

*b.* Pursuant to Public Law 101-647, Section 231, applicants for positions that involve working with children are required to complete DA Form 3433-2 (Supplemental A – Employment Application Form for Child-Youth Service Positions). Upon appointment the signed statement will become a permanent part of the employment record and will be filed on the right side of the Official Personnel Folder (OPF). Applicants who answer the questions in the affirmative will have their application referred to the installation Quality Review and Advisory Panel (QRAP). See AR 608-10 for details.

*c.* Completion of SF Form 181, (Race and National Origin Identification), is optional on the part of the employee. If the data is provided, it will be utilized in accordance with the Privacy Act Statement contained on the form.

*d.* Applications will be date stamped or marked on receipt.

*e.* Applications for NAF positions received as a result of vacancy announcements, will be retained by the NAF-CPU or management official with delegated recruiting authority. Applications will be retained for a minimum of 1 year after the placement of the selected applicant into the position and may then be destroyed, unless a complaint or grievance is in process or pending regarding the appointment. In such cases, the applications will not be destroyed until 30 days after the final decision is issued.

*f.* Applications received other than in response to vacancy announcements may be retained on file or returned to the applicant, depending upon anticipated needs.

*g.* Applications may be accepted from military personnel prior to separation or retirement for consideration with other qualified applicants. If selected the requirements of paragraph 2-20 must be met.

*h.* Activities shall publicize information regarding the Reemployment PriorityList (RPL) and the employment preferences and priority consideration provided for in this regulation.

*i.* It is the responsibility of the applicant to clearly identify any employment preferences or priority consideration claimed when making any employment application. Claims to preferences or priority consideration must be verified by the CPAC/NAF-CPU prior to referral to the selecting official.

## **2-7. Referral**

*a.* Minimum qualification requirements will be applied, and all qualified applicants will be referred. When the number of qualified applicants is too large to be manageable, applicants may be referred in chronological order by the

date that the application was received or by a simple rating system based on directly related job requirements. If a rating process is used to determine the best candidates, only the best candidates will be referred. Applications will be referred to the selecting official on DA Form 4985 (NAF Referral and Selection List), although a local form which has been developed in negotiation with labor organizations may be used.

b. Qualifications requirements will be directly related to the duties to be performed, will not unduly limit competition and will not be so designed that advantage is given to a particular individual.

## **2-8. Selection preferences for NF-3 and below, FWS and CC positions**

a. In competitive recruitment actions, employment preferences as required by law and DoD policy shall be accorded to fully qualified applicants in the following order of selection priority:

- (1) Spouse Employment Preference (SEP)(see 2-11).
- (2) Involuntarily Separated Military Preference (ISMP) (see 2-12).
- (3) Family Members in Foreign Areas (see 2-1j).

b. If there is more than one eligible in a given preference category, a selection may be made from within that category in any order.

c. If a rating process is used in developing a referral list, and a preference-eligible candidate is not among those determined to be best qualified, that individual will not be included on the referral list.

d. If a preference eligible is referred for a covered position, that individual will be selected in accordance with the order of selection priorities described above. Installation Commanders may approve exceptions based only on compelling hardship to the mission or the preference eligible; if a selecting official wishes to select an individual ineligible for, or in a lower selection priority category than, one of these preferences, the selecting official must furnish the commander a written justification through the CPAC/NAF-CPU. Exceptions should be rare, and this authority cannot be further delegated. Prior to selection the Installation Commander must document the exception and the reason(s) for it in writing.

## **2-9. Priority consideration for NF-3 and below, FWS and CC positions**

a. After application of the above employment preferences, in competitive recruitment actions candidates for covered positions will be accorded priority consideration in the following order:

(1) DoD NAF employees separated by business-based action. This priority consideration is authorized for up to one year from separation when requested by the individual. This priority consideration is separate and apart from the Reemployment Priority List (RPL) priority placement program (see chap 10).

(2) Current and former NAF employees. This does not include emergency hire FLX service, but includes any other service with a DoD NAFI. Current Army APF employees are deemed to have current NAF employee status for purposes of this priority consideration if, at the time of application, they are serving in a position without time limits and have served continuously for at least one year in an Army APF position.

(3) Outside applicant veteran (OAV). For purposes of this priority consideration, "veteran" shall be defined the same as the term "preference eligible" in 5 U.S. Code 2108(3) – (4); however, this is priority consideration only and not a selection preference. To receive priority consideration, veterans must submit a copy of their DD 214 at the time of application. Veterans' priority consideration does not apply to in-service placement actions.

(4) Outside applicant non-veteran (OANV).

b. Installation Commander approval is required where the selecting official wishes to select an outside applicant non-veteran over a veteran eligible for priority consideration under a(3) above. The selecting official must furnish the commander a written justification through the CPAC/NAF-CPU. The non-veteran may not be selected until this justification has been reviewed by the commander or designee and written approval has been furnished to the servicing CPAC/NAF-CPU.

## **2-10. Documentation of selection**

A brief explanation by the selecting official as to why the particular candidate was selected will be annotated on the referral and made a part of the selection file. If a selecting official passes over a candidate eligible for an employment preference or priority consideration, a brief explanation by the selecting official will also be included in the selection file. Installation commander approval, when required under 2-8d and 2-9b, will also be maintained in the selection file. All actions required in selection must be completed as appropriate, before selecting a retired member of the US Armed Forces for employment.

## **2-11. Spouse employment preference (SEP)**

a. The SEP does not apply to non-competitive placement actions. A spouse is defined as the wife or husband of an active duty military member of the Armed Forces, including the Coast Guard, and a member of the National Guard or Reserves on active duty. For purposes of this preference, the marriage must have occurred prior to the servicemembers' relocation to the new duty station.

b. An eligible spouse (as verified by the sponsor's PCS orders) must request consideration at the time of application.

Eligibility time period begins 30 days before the military sponsor's reporting date at the new duty location and continues during the entire tour, or until acceptance or declination of a position offer (NAF or APF) at the grade for which preference has been requested. Preference is also terminated on placement into any continuing position (NAF or APF), or one expected to continue for at least 1 year in the new duty location, whether or not preference was applied. A flexible appointment of twelve months or more is considered to be a continuing position for purposes of this paragraph. MACOM commanders in foreign areas may limit eligibility for the preference during the last 6 months of the sponsor's tour. Eligible spouses will be given preference in the same commuting area as that of the new duty station of the sponsor, or in surrounding localities to which a spouse is willing to travel on a daily basis.

## **2-12. Involuntarily separated military preference (ISMP)**

*a.* Certain members of the Armed Services who were involuntarily separated from active duty with an honorable or general under honorable conditions discharge are entitled to preference in hiring for a period of 1 year after separation. ISMP also applies to certain voluntarily separated members of the Armed Forces. This preference also applies to their dependents.

*b.* Preference applies to all pay band positions NF-3 and below, and all FWS and CC positions for which the ISMP eligible applies and is qualified. The preference must be claimed at the time of application. ISMP does not apply to non-competitive placement actions.

*c.* An individual is entitled to this preference in hiring only one time. The preference is terminated upon placement in, or declination of, a NAF position for which application was made.

*d.* Eligibility for preference will be verified by applicable military and civilian identification cards bearing the over stamp Transition Assistance (TA). Since the circumstances under which a military member or dependent may attain eligibility are quite broad, the CPAC/NAF-CPU should refer questions to the appropriate military personnel authority.

## **2-13. Appointment**

*a.* Personal services of all individuals where an employee-employer relationship exists will be obtained in accordance with the provisions of this regulation by appointment of the individuals to NAF positions. (See AR 215-1, chap 3, for the common law factors used to determine employee-employer relationship). The type of appointment will be entered on DA Form 3434. These entries give full force and effect to the appointment and govern the status and the length of time the employee may reasonably expect to serve in his/her appointment. If a FLX appointment has a regular schedule, item 25 of DA Form 3434 will reflect the minimum number of hours to be scheduled.

*b.* Contracts may be used to secure personal services of individuals, such as sports officials, for services that do not consist of duties similar to those of employees appointed under this regulation. Contracts will conform to the requirements of AR 215-4.

*c.* Commanders may approve on a case by case basis the use of temporary help service firms for the brief or intermittent use of the skills of private sector temporaries. following the guidelines of 5 CFR 300, Subpart E, "Use of Private Sector Temporaries". Commanders will ensure that records are maintained of each temporary help service request for review by the next higher command level (chain-of-command). Temporary help service firms may not be used to—

- (1) Circumvent the recruitment and hiring procedures for a NAF employee.
- (2) Displace a NAF employee.
- (3) Create an employer-employee relationship.

*d.* Verification of previous employment will be made using DA form 3439 (Nonappropriated Fund Instrumentality Employment Inquiry) other than for emergency FLX appointment. For off-duty military personnel (ODM), approval of employment from the individual's commanding officer satisfies this requirement. (Statutory requirements for filling child development and youth services positions must be followed.)

*e.* Whenever an appointment to a position is to exceed 3 months, and the physical demands of the position can be adequately described and assessed by the appointing official or designee by use of a properly completed DA Form 3666 (Department of the Army Nonappropriated Funds, Statement of Physical Ability for Light Duty Work), a medical examination may be waived except as provided in paragraph f below. If either as a result of replies on these forms or of personal observation, the appointing official believes the applicant is physically unable to do the job, or would create a hazard to him or herself or others, the appointing official may require the applicant to undergo a medical examination as a prerequisite to employment. (The examination may not be required solely on the basis of the applicant's age, sex, or other non-job-related factors). Examinations will be performed by duly licensed physicians. The cost of the medical examination will be borne by the employing NAFI. In the same manner, the supervisor may require a medical examination subsequent to employment if it appears that the employee is unable to perform the duties of the job.

*f.* DA Form 3437, (Department of the Army Nonappropriated Funds, Certificate of Medical Examination) will be required for positions that—

- (1) Involve operation of motor vehicles.
- (2) Involve direct physical contact with people, such as child-care positions.
- (3) Involve work above ground level or around hazardous, power-driven machinery.

(4) May entail strenuous exertion, hazardous duty, or otherwise have arduous physical demands that involve exceptional stress. Applicants for positions that have a specific sight or hearing requirement, but are otherwise light duty positions, may be given a sight or hearing examination without requiring a full pre-appointment medical examination.

g. The provisions of paragraphs “f” and “g” do not apply to ODM.

h. A food handler’s examination will only be given when specifically required by local medical authority.

i. The following pre-employment checks will be made in addition to the reference checks required in subparagraph e above:

(1) For all employees—

(a) Local military police records check.

(b) Local civilian law enforcement check (when obtainable).

(2) In addition, for fund managers, activity managers and all positions in which the incumbent has significant responsibility for program management, procurement or has accountability for funds, property or merchandise:

(a) A US Army Criminal Investigation Command records check to include the Defense Central Investigation Index.

(b) A National Agency Check (NAC) will be initiated using SF Form 85P (Questions for Public Trust Positions), unless there has been a favorable NAC completed previously with no break in employment (or military service) greater than 12 months.

(c) To facilitate filling vacancies, appointments may be made prior to completion of the checks required for these positions with the written approval of the official immediately above the selecting official. Such appointments will be clearly identified as being subject to satisfactory completion of pre-employment checks.

(3) In addition, for positions in the CDS and Youth Services and any other position determined to be responsible for the care of children under 18 years of age — a favorable U.S. Army Criminal Investigation Division Command records check to include the Defense Central Investigation Index (DCII), National Agency Check, and State Criminal History Repository (SCHR) results. When an employee moves from one installation to another, telephonic verification of completed checks will be requested from the former CPAC/NAF-CPU. Upon receipt of the OPF, completed checks will be verified. Completed checks for employees moving from APF to NAF remain valid. (See AR 608–10, para 2–24). Once the following pre-employment inquiries are completed, an individual may start work provided the employee is under line of sight supervision (LOSS) by employees who have completed the required pre-employment checks. Such appointments will be clearly identified as being subject to satisfactory completion of the following installation records check (IRC):

(a) Local military police records.

(b) Local civilian law enforcement (where obtainable).

(c) Verification of previous employment or a recommendation from the last educational institution attended.

(d) Army Central Registry.

(e) Alcohol and Drug Abuse Prevention and Control Program.

(f) A NAC will also be initiated to include an FBI fingerprint check, unless there has been a favorable NAC with fingerprint check completed previously with no break in employment (or military service) greater than 12 months. Fingerprints will be recorded on FBI Form FD 258 (Applicant Fingerprint Card).

(g) State Criminal History Repository (SCHR) check in each state in which the individual has resided during the 5 years prior to hiring. A new SCHR check need not be initiated unless there has been a break in service greater than 12 months. Record re-verification (IRC and DCII) is required at a minimum every five (5) years for all employees responsible for the care of children and should cover the time period since the completion of the last background check.

(h) Record re-verification (IRC and DCII) is required at a minimum every five (5) years for all employees responsible for the care of children and should cover the time period since the completion of the last background check.

(4) Each individual to be assigned to a position which requires access to classified information will also be required to be the subject of a NAC. Appointment will be identified as being subject to a suitability determination, which will be based on the information obtained as a result of the security investigation. Access to classified information is not permitted prior to this determination.

(5) Results of checks will be annotated on the OPF copy of DA Form 3434 as favorable/unfavorable. Annotations will not specify any derogatory information.

(6) Individuals whose criminal history background checks result in nonselection for employment or service should be informed of the right to an administrative appeal under 32 CFR Part 310.

j. Employment of minors is as follows:

(1) Within the US the age requirement may be lowered to 14 years if State and local law allows such employment.

(2) In foreign areas minors may be employed under the policies prescribed by the MACOM.

(3) The restrictions relating to hours of duty will be observed (see chap 4). The restrictions imposed by laws of the State and municipality on employment of minors handling intoxicating beverages will be observed.

(4) The employment of any employee under the provisions of (1) above must comply with Federal, State, and local laws relating to the employment of minors and with the FLSA. Before any minor applicant is appointed to a NAF position, they must present a work permit, as required by local law.

k. NAF employees recruited within the US for overseas assignment will be required to execute DA Form 3440 (Department of the Army Transportation Agreement Nonappropriated Fund Employee) at the time of appointment. When a NAFI agrees to pay transportation costs upon appointment or transfer of an employee within the US, a transportation agreement to complete a specified period of service will be signed by the employee and placed in the OPF.

l. Employees who retire or separate from NAF employment in a foreign area and who have earned entitlement for return transportation to the US, must use the authorization within a reasonable period of time after separation. Under unusual circumstances which, in the opinion of the local commander warrant a longer period of delay, return transportation may be delayed up to a maximum of 2 years. Extended delays should only be approved if it is in the best interest of the employing activity or substantially to the benefit of the employee and is not more costly or otherwise adverse to the activity. Procedures established for implementation of this authority must include the requirement for specific written request by the employee and approval by the commander. If a written request is not made or if a request is disapproved, the employee must accept transportation within a designated period. If the employee refuses to accept transportation at the end of the designated period, they will be considered to have waived the right to return transportation to the US. Requests for delayed travel to accept employment with the private sector or for the purpose of establishing a residence in the foreign area will not be approved.

m. Non-US citizens will not be assigned to any position designated as a sensitive position.

n. Each FWS employee within any of the several states of the United States or the District of Columbia must be a US citizen or a bona fide resident of one of the United States or the District of Columbia. When the Secretary of Labor certifies that no US citizen or bona fide resident of the United States or the District of Columbia is available to fill the particular position, non-citizens may be considered. Non-citizens must meet all requirements established by the Immigration and Naturalization Service (INS) to be eligible for employment in any NAF position.

(1) The Department of State has entered into bilateral work agreements with numerous other governments. The agreements permit the employment of family members of military personnel or civilian employees assigned to duty outside the United States. Questions should be addressed to the Department of State.

(2) All employees (both US citizens and non-citizens) hired in the US must complete INS Form I-9 (Employment Eligibility Verification) at the time of hire.

o. Some activities are only open to provide seasonal services, normally at the same time each year. These activities may identify positions not needed for the entire year as "seasonal positions" and may place incumbents in a non-duty, non-pay status during the periods when their services are not needed.

(1) Examples of positions that may be identified as seasonal include a school cafeteria worker or a greens-keeper for a golf course where no work can be performed during winter months. A position may be identified as seasonal only when the non-duty, non-pay period can be determined at the time of appointment or initial placement of an employee in the position. If the non-duty period is in excess of 6 months, a seasonal appointment may not be used; such requirements are met with a FLX appointment.

(2) The following requirements apply to appointments to seasonal positions:

(a) The non-duty, non-pay periods for the appointment year will be specified in item 25 of DA Form 3434 in as much detail as possible. If specific dates cannot be stated, the length of the non-duty periods and the approximate time of year will be given, (for example, 2 workweeks during the Christmas vacation or 12 workweeks during the June to August summer vacation period).

(b) The non-duty, non-pay periods will not be less than 1 workweek.

(c) Compensation to an employee for services in a seasonal position will be computed on the same basis as for a RPT or RFT employee in a comparable position. Compensation for services will be issued in full for each pay period in a duty status.

(d) Employees will earn and be granted sick and annual leave in accordance with the provisions of chapter 5. A seasonal employee may request that a non-duty, non-pay period be reduced to permit him/her to use any amount of accrued annual leave.

(e) The criteria stated in chapter 3 will be used to determine whether part or all of the non-pay periods may be credited as part of the waiting period for within-grade increases.

(f) Prior to accepting appointment to seasonal positions, employees will be advised of all applicable conditions of the appointment.

(g) The non-duty, non-pay periods specified do not require advance notice and do not constitute furloughs or adverse actions, since they are conditions of employment voluntarily accepted by the appointee.

(h) During periods specified as non-duty, non-pay periods, if the need arises and the employee consents, the employee may be utilized on an as-needed basis. Regardless of the duties performed during such periods, the employee's rate of basic pay will be unchanged. Such utilization does not alter the basic appointment terms; however,

all hours of work will be credited for leave accrual purposes. A regular seasonal employee may not receive another appointment during non-duty, non-pay periods.

## **2-14. Appointment actions**

The following actions will be taken in connection with all appointments:

a. The appointee must complete an affidavit agreeing not to strike against the US Government, DA Form 3436 (Department of the Army Appointment Affidavit (Nonappropriated Funds)). This procedure does not apply if appointment is accomplished without a break in service following other NAF employment with the Army. It also does not apply to non-US citizens in foreign areas.

b. Prior to appointment a DA Form 3433-1, Supplemental Application Form, must be completed for permanent verification of prior service, experience, education, and salary history.

c. After verification of the prior NAF and APF service, if applicable, the employee's proper leave category will be determined (see chap 5). The rules concerning the accumulation and use of leave will be explained to the employee at this time.

d. DA Form 3434 will be completed using the standard Nature of Action (NOA) terms shown in Table C-1.

e. The employee's eligibility for participation in the Group Health and Life Insurance Plan will be determined. The Plan will be reviewed in detail with the employee during inprocessing. DA Form 3473 (Application for USANAF Retirement Plan and/or Group Insurance Plans) will be completed by each eligible employee within 30 days of appointment or at the time of appointment indicating whether or not he/she desires enrollment under the plan.

f. Each regular employee will be automatically enrolled in the retirement plan (see Chapter 15). An eligible employee will be informed of the scope and details of the plan and will be provided a copy of the NAF Employee Benefits Travel Guide. An eligible employee will be informed of the 401(k) Savings Plan and will be afforded enrollment opportunity.

g. The Internal Revenue Service (IRS) Form W-4, (Employee's Withholding Allowance Exemption Certificate), and appropriate State or municipal exemption certificates will be completed. It is the responsibility of the servicing CPAC/NAF-CPU to verify the accuracy of the name and social security number against the social security card. The name according to the social security card must be used on all personnel actions. If an employee does not have a social security card, the IRS Form W-4 should indicate "applied for" in the number block, and a new IRS Form W-4 must be submitted upon receipt and verification of the social security number (SSN). Once issued, the SSN does not change although the employee's name may be changed. Upon a change of name the employee must obtain a social security card in the new name or submit evidence that one has been requested, prior to any change to personnel records. If applicable, IRS Form W-5 (Earned Income Credit Advance Payment Certificate) will be completed.

h. An OPF will be established and maintained by the servicing CPAC/NAF-CPU. Separate OPFs will be maintained for each position in which appointed when serving in more than one NAF position. Records of employees covered by PL 101-508 will be merged in accordance with OPM Operating Manual, the Guide to Personnel Record Keeping.

i. The employee will complete DA Form 5521. The properly completed form will be maintained as a permanent document in the personnel folder until superseded. The employee will be advised that a new or revised DA Form 5521 must be furnished any time there is a change in the information provided.

j. For positions in CDS and YS, and any other positions determined to have responsibility for care of children, item 25, DA Form 3434 will contain the following remark: "'Unfavorable adjudicated background checks will be grounds for removal.'"

k. INS Form I-9 will be used as follows:

(1) Within the US, all employees must complete Section 1 of INS Form I-9. It is the responsibility of the servicing CPAC/NAF-CPU to ensure that this is done timely and properly. The purpose of this form is to verify and record the individual's eligibility for employment in the US. Any of the documents listed on the reverse side of the form are acceptable verification in accordance with the instruction in Section 2 of the form, Employer Review and Verification.

(2) The completed INS Form I-9 will be placed in the OPF on the right hand side. This permanent record will provide evidence of compliance with the law.

l. DoD civilian employees who move between civil service and NAF systems within DoD without a break in service of more than 3 calendar days are covered by the provisions of the DoD Employee Benefit Portability Program.

m. DA Form 7427 (Nonappropriated Fund Inprocessing and Outprocessing Checklist) and DA Form 7428 (Nonappropriated Fund Supervisor's Checklist) will be completed and filed in the OPF in accordance with Chapter 16.

## **2-15. Denial of employment**

a. Employment may be denied to an applicant or terminated for an employee who has been convicted of—

(1) A felony (crime declared a felony by statute or one for which a penitentiary sentence can be adjudged).  
(2) A misdemeanor involving moral turpitude (conduct contrary to accepted standards of conscience or moral law, involving vileness of principle, words, or action).

b. Rehabilitated offenders may be hired for jobs for which they are needed and qualified. Each selection for



appointment of a rehabilitated offender will be judged on its own merits, and the decision to hire such an individual is the responsibility of the installation commander.

c. Employment may be denied to any person who was discharged from the Armed Services of the US under other than honorable conditions. Such decision will be made by the installation commander after full review of the specific circumstances involved in each case.

d. Employees who have been discharged for cause or permitted to resign to avoid discharge (after receipt of written notice of proposed disciplinary action) are not eligible for rehire unless prior authorization has been obtained from the commander of the employing installation.

e. Employment may be denied to, or terminated for, any person who has presented false or misleading information in completing a DA Form 3433 or other employment application.

## **2-16. Separations**

a. In the case of separation by resignation, the employee should submit a resignation in writing on DA Form 4017 to the servicing CPAC/NAF-CPU through the supervisor. The resignation should indicate the reason and the effective date. Once tendered and accepted a resignation may only be withdrawn with the approval of the supervisor. The employee should provide the address to which correspondence will be sent. In the event that a resignation is made orally, and the employee will not or does not submit a written resignation, an appropriate annotation to this effect will be made on the DA Form 4017 by the supervisor.

b. Flexible employees may be separated with an advance notice of 7 calendar days. DA Form 3434 may be used to provide notice. Such separations are not grievable and are taken without prejudice to reemployment. (For separation of flexible employees by BBA who have been on the rolls of the NAFI for 3 continuous years, see chap 10.)

c. Regular Limited Tenure (RLT) employees may be separated prior to the projected expiration date, with or without cause, with a minimum 14 calendar-day advance notice. No advance notice is required upon completion of the projected period. Separations of RLT employees are not grievable.

d. Employees may be separated from the rolls upon a determination that they have abandoned their positions. An employee who fails to report for duty and is carried in an absent without leave (AWOL) status for 3 consecutive scheduled work days may be determined to have abandoned his/her position regardless of any expressed intent to return to duty at a subsequent date. No advance notice is required prior to effecting the separation action. Such separations are not grievable and are taken without prejudice to reemployment. The DA Form 3434 effecting the separation will be mailed to the employee's last known address. The effective date of the separation will be the day following the last day the employee was in a duty or approved leave status.

e. Separation of regular employees for cause will be effected in accordance with the procedures in chapter 7.

f. For separation during probation, see paragraph 2-19.

g. When an employee becomes physically or mentally incapable of performing his or her assigned duties (as determined by appropriate medical authority), every effort will be made to explore possible solutions to keep the employee in the workforce, and reasonable accommodation may be required if the individual is a qualified employee with a disability. Possible alternatives include reassignment at the same or a lower level, sick leave, or leave without pay (LWOP). The employee will also be counseled regarding the disability retirement program. In the event no alternatives are appropriate, the employee will be separated as disqualified. RFT and RPT employees will be given advance notice and the right to grieve the action. Separation for medical disqualification will be in accordance with the same notice and procedures provided for in paragraph 7-9.

h. Off-duty military employees must be separated from employment pursuant to written request of the military member's commanding officer. (See para 2-20c). Such separations are not grievable and are taken without prejudice to reemployment.

i. An employee may be separated as disqualified in accordance with the same notice and procedures provided for in paragraphs 7-9a through 7-9k when he or she—

(1) Is barred by the installation commander from the installation where assigned. A copy of the notice of debarment will be retained in the suitability file to support the action. The debarment procedure has its own process, therefore the separation action is not grievable under chapter 8.

(2) Becomes ineligible for continued employment by operation of laws, treaties, or international agreements.

(3) Due to administrative or legal action loses possession/entitlement for 30 calendar days or more of licenses or certification necessary to perform the functions of the job.

(4) Refuses or repeatedly fails to submit to position required medical examinations.

(5) Becomes ineligible for continued employment due to marriage or other circumstances which would result in a violation of paragraph 2-1d. Prior to effecting separation, every effort will be made to reassign one of the affected employees.

(6) Fails to complete training that is a condition of employment without acceptable justification.

(7) Has received unfavorable required pre-employment checks.

j. An employee may be separated upon completion of one year in a LWOP status. The DA Form 3434 effecting the separation will be mailed to the employee's last known address.

k. Employment may be terminated for an employee who has been convicted of a felony or misdemeanor which occurred prior to entrance on duty and about which the employing official was not informed before the employee entered on duty.

l. Absent a waiver as described in para 2–20e an off-duty military employee must be separated upon retirement from active duty.

## **2–17. Applicability**

Each employee serving in a RFT or RPT position, except those in a limited tenure position (see para 2–2a(2)), will serve a probationary period.

## **2–18. Probationary purpose**

The purpose of the probationary period is to afford a final test of the employee's ability and fitness for the position as demonstrated by actual performance on the job. During this period, the employee's conduct and performance in the duties of the position will be observed and he/she may be separated from NAFI employment if the conditions warrant such action.

## **2–19. Probationary period**

a. Each individual receiving an initial appointment to a RFT or RPT position is required to serve a 1-year probationary period.

b. Employees separated from their positions before the completion of the probationary period, and later hired in a RFT or RPT position after a break in service of more than 30 days, are required to serve a new probationary period, beginning on the date of entrance on duty in the new position.

c. A probationary employee who is transferred, reassigned, promoted, or demoted in a DA NAFI during probation will not begin a new probationary period with the position change but is required to complete only the remainder of the probationary period.

d. The following NAFI service is credited toward the completion of a probationary period, provided there has been no break in service of more than 30 days:

- (1) Periods in a pay status in a regular appointment.
- (2) Absences in a non-pay status up to a total of 15 workdays.

(3) FLX service is creditable when the appointment has been converted to RFT or RPT in the same position with no break in service. The maximum credit that may be granted for FLX service is 6 months. Service in an emergency hire FLX position is not creditable.

e. Service in a DoD position paid from APF is counted toward completion of the probationary period only if the NAF appointment was without a break in service of more than 3 calendar days.

f. Individuals with prior service in a DA NAFI are required to serve a probationary period upon reemployment in a RFT or RPT position if the break in service exceeds 3 years, whether or not such prior service included a previous probationary period.

g. Individuals with prior service in DoD NAFIs not under the exclusive jurisdiction of the Secretary of the Army, including the Navy Personnel Command, Marine Corps, Navy Exchange Service Command, Air Force, or Army and Air Force Exchange Service, who have already completed a probationary period in the same field of work need not complete an additional probationary period as long as there has not been a break in service of one year or more immediately before employment with Army.

h. Individuals who have completed a probationary period with a DoD NAFI other than Army, who are subsequently appointed to an Army NAFI as the result of a transfer of function or within 90 days of a business-based action, need not serve another probationary period.

i. Upon initial appointment or selection to a supervisory or managerial position, an employee is required to serve a one year probationary period. This supervisory probationary period is in addition to any previously completed probationary period.

j. An employee may be separated during the probationary period if he/she fails to demonstrate that he/she possesses the skills or character traits for satisfactory performance in the position.

(1) The supervisor is responsible for determining whether the employee's performance or character traits are such as to warrant separation. Supervisors will discuss with the employee the specific reasons that lead to the conclusion that he/she is not suitable. A record of the discussion will be prepared by the supervisor and placed in the suitability file, and a copy will be given to the employee. A supervisor will allow a reasonable length of time after the discussion to determine whether the employee sufficiently improves.

(2) If it becomes apparent, after a full and fair trial serving in the position, that the employee's performance, general character traits or capacity, are not such as to fit him/her for satisfactory service, the supervisor must initiate action to separate the employee. Separation action will be initiated in time to give the employee an advance written notice of 7 calendar days before the effective date of separation unless his/her retention in a duty status-

- (a) Might result in damage to or loss of property or funds.

- (b) Might be detrimental to the interest of the activity; or
- (c) Might be injurious to the employee, his/her fellow workers, or the general public. Advance written notice of 24 hours is sufficient in any of the above situations.
- (3) When the decision to separate during probation is based upon misconduct, the employee may be separated with no advance notice.
- (4) The notification will be made with DA Form 3434. A remark will be placed in Item 25 to inform the employee that the separation can not be reviewed through use of the grievance procedures in chapter 8.
- (5) Separation under this paragraph must be effected prior to the expiration of the probationary period.

## **2-20. Employment requirements of military personnel**

a. Enlisted personnel may be employed by a NAFI after duty hours in a RPT or FLX appointment. Total weekly hours may not exceed 34 hours combined in one or more NAFIs.

b. The services of commissioned and warrant officer personnel are authorized only under a personal services contract. Such services will be limited to those prescribed in AR 215-4 (officiating at sports events and conducting educational, religious, recreational, or entertainment activities), so that no employer/employee relationship is created. (See AR 215-1, chap 3).

c. Prior to the employment of ODM personnel, the written approval of the military member's commander will be obtained. If at any time the commander determines that off-duty employment is detrimental to military duty or otherwise withdraws his/her consent to the off-duty employment, employment will be terminated. Enlisted military personnel assigned to a NAF activity may be employed in that same activity in an off-duty status; however, they cannot be supervised by an individual who is subordinate to them in their duty assignment.

d. Subject to the provisions of 5 USC 3326 and DoD Directive 1402.1, retired members of the Armed Forces may be considered eligible for employment by a NAFI. Military members on terminal leave pending retirement may also be considered eligible for employment by a NAFI. Employment will be effected on an equitable basis and in strict compliance with the principles of merit and open competition. The practice and appearance of preferential treatment will be avoided. The following principles will be strictly observed before employing any retired member of the uniformed services in any position for which compensation for services performed is paid from a NAFI:

- (1) Full consideration will be given to all eligible and qualified employees of the recruiting activity.
  - (2) Recruitment for the position will be conducted in a way designed to ensure that reasonable efforts are made to obtain applicants from all possible sources and in a manner which will avoid any suspicion of attempts to unduly limit competition to a particular individual.
  - (3) A vacancy must be well publicized. The provisions of paragraphs 2-3 and 2-4 apply.
  - (4) Qualification requirements will not contain provisions which unduly limit competition or provisions designed to give advantage to a particular individual.
  - (5) Before selecting and appointing retired members of the Armed Forces of the US to a NAF position, it must be clearly established that they are better qualified than any in-service candidate.
  - (6) Positions will not be held open pending the retirement of a member of the Armed Forces of the United States in order to provide that person with a preferential opportunity to apply for or be appointed to the position. Active recruitment will be initiated not later than the time the position became vacant, unless suspension of recruitment may be fully justified for management reasons unrelated to the impending retirement of a member of the uniformed services.
  - (7) If the position was last occupied by the proposed appointee or by any other military incumbent, it must clearly be demonstrated that the proposed change to civilian incumbency is to meet a bona fide management need and not to afford civilian employment to the proposed appointee.
- e. Employment in a civilian position, regardless of the grade of the position, of retired military members of the Armed Forces of the United States by an Army NAFI within 180 days immediately following retirement requires prior approval of the Installation Commander. This authority cannot be delegated below this level. No appointment of any kind may be made until approved by the Commander.
- f. The servicing CPAC/NAF-CPU will assure that all requests for approval to employ retired military within the 180-day period conform to the requirements of paragraph e, above.
- g. Records of requests for approval of the appointment of retired military prior to the end of the 180-day period after retirement or for the continuation of employment upon retirement will be maintained to support the action and to permit meaningful review or inspection by the proper authority. The Installation Commander is the only approving authority.
- h. Individuals who separate from military service under the Voluntary Separation Incentive (VSI) or Special Separation Benefit (SSB) Program after 30 September 1994, and are hired in a NAF position within 180 days of separation, shall have the VSI or SSB separation payments recouped. CPAC-NAF-CPU will review the DD Form 214 (Certificate of Release or Discharge from Active Duty) of separated military to determine if VSI or SSB has been paid.

If the DD Form 214 indicates payment of a VSI or SSB within 180 days prior to appointment, the appropriate Defense Finance and Accounting Service Center must be notified.

## **2-21. Equal Employment Opportunity Program policy**

The employment practices of all NAFIs will conform to the Government's policy of ensuring equal employment opportunity to all persons without regard to race, color, religion, sex, national origin, disability, age, or other basis as expressed in AR 690-12 and applicable executive orders.

## **2-22. Staffing and complaint handling**

a. Administration of EEO programs is a command responsibility. Activity EEO offices will process complaints from NAF employees in the same manner as those received from APF employees in accordance with AR 690-600. Major command EEO officers will control the processing of these complaints in the same manner as they do for APF employees. Cost of processing complaints will be paid by APF.

b. If the size of the NAF work force justifies it, the assignment of a NAF employee as an assistant EEO officer is authorized.

c. If a commander's EEO Advisory Council has been established, and if the size of the NAF employee group warrants, that group should be represented on the Council.

## **2-23. Commander's responsibilities**

a. Commanders will take any necessary steps to ensure that all appointing officers, selecting officials, and supervisory personnel comply with the Government's policy of fair and equitable treatment of all NAF personnel in all matters affecting their employment without regard to race, color, religion, sex, national origin, disability, age or other basis covered by AR 690-12 and applicable executive orders.

b. Commander's policy statements will be distributed to all NAF employees.

c. The commander's plan of action documents, as required by AR 690-12, will be fully responsive to the employment situation of NAF employees and will be distributed to officials responsible for the management and operation of NAFIs.

## **2-24. Career Referral Program (CRP)**

The CRP is established to attract and to retain highly qualified employees by providing greater career opportunity for promotion, transfer, and reassignment to managerial, professional, technical, and administrative positions. To accomplish these objectives, central rosters of eligible candidates will be established and referral lists of the most qualified employees will be issued to selecting officials by CFSC. Registration in the program is mandatory Army-wide and is necessary to ensure consideration for positions that must be filled through the referral program. Use of referral lists is mandatory except as stated in paragraph 2-29b. These lists are the primary source of eligible candidates for filling positions covered by the program.

## **2-25. CRP applicability**

a. All employees Army-wide, except non-US citizens in foreign areas, will be enrolled in the referral program if they are—

- (1) Paid from NAF.
- (2) Serving in Regular NF positions, and
- (3) Eligible for managerial, professional, technical and administrative positions in pay level NF-4 and above.

b. Current NAF employees will not normally be referred for a one-year period following a PCS move at Army expense.

c. Employees will not be referred if their referral record has not been updated within the previous 12-month period. Submission by the servicing CPAC/NAF-CPU of copies of DA Form 3434 for subsequent pay actions will meet the requirement.

d. Displaced NAF employees, NF-4 and above, will be provided priority consideration for employment up to one year after separation. A copy of the notification of separation must accompany the request for priority consideration.

e. The referral program will be used to fill all RFT positions that are—

- (1) Managerial, professional, technical, or administrative.
- (2) Paid from NAF.
- (3) In pay level NF-4 and above.
- (4) Located in the United States.

f. All librarian positions (occupational code 1410) in NF pay level 4 and above, regardless of location, will be filled through the CRP.

## **2-26. CRP administration**

a. CFSC operates and administers the CRP. This includes—

- (1) Developing and issuing procedures.
  - (2) Establishing and maintaining central rosters of qualified employees.
  - (3) Issuing referral lists for filling vacancies and authorizing recruitment or other action when referral lists do not provide a selectee.
  - (4) Providing guidance to commanders and to employees on the program.
- b. Employees will—*
- (1) Register for inclusion on the central rosters by submitting a resume.
  - (2) Provide promptly to the servicing CPAC/NAF-CPU information on any change in acceptable salary or location and in qualifications, including training or education successfully completed.
  - (3) Accept training assignments and take advantage of opportunities to increase their qualifications and skills for positions included in the referral program.
- c. The servicing CPAC/NAF-CPU will—*
- (1) Provide information about the program to employees, supervisors, and managers. Notify employees of eligibility and the requirement to register in the program.
  - (a) Forward a copy of the registrant's resume with a copy of their current job description/position guide to CFSC-HR, 4700 King St., Alexandria, VA 22302-4414.
  - (b) Forward promptly to CFSC a copy of each DA Form 3434 which effects the separation, transfer, reassignment, demotion, or promotion of employees registered in the program.
  - (2) Ensure that selections from referral lists are made within 30 days, or submit a written request for extension. Promptly report selections to CFSC.

## **2-27. CRP registration**

- a. Employees in all commands, Army-wide, occupying regular positions, who are qualified for positions to be filled by use of the CRP, as determined by the servicing CPAC/NAF-CPU, will register within 10 months after the date of their appointment to a RFT position. Employees who have previously registered in the program are required to register again on reemployment or reinstatement. For registration, the employee will submit a resume to the CPAC/NAF-CPU for submission to CFSC. If an eligible employee does not wish to register, a signed statement to that effect must be submitted. A copy of the statement will be filed in the OPF and a copy will be furnished CFSC.*
- b. Outside applicants may also register in the program by applying directly to CFSC.*

## **2-28. CRP Referral Program rosters**

A roster of eligibility will be established for each type and level of position covered by the referral program. Only those registrants who meet the qualification requirements for positions of the type and level requested to be filled will be placed on rosters. As a general rule, a qualified employee will be placed on the roster for all pay levels of the type of position requested and for which qualified and for which the salary is acceptable.

## **2-29. CRP requesting referral lists**

- a. As soon as it has been determined that a RFT position subject to this program must be filled, a request for a referral list will be forwarded to CFSC. The request will include the title, series, and pay level of the position, the position guide, DA Form 4017 with approved salary range and pay range and a statement of any special qualifications desired. Appropriate information as to the availability of payment for relocation costs will also be furnished (see para 2-1m). The requesting office may forward with the initial request applications of one or more individuals considered to be qualified for the position. These applications will be considered by the Referral Program Manager and may be included on the referral lists if their qualifications warrant it. Use of referral lists for positions covered by this program is mandatory except as provided in paragraph "b" below.*
- b. A referral list need not be requested under the following circumstances:*
  - (1) For noncompetitive promotions authorized by paragraph 2-35.
  - (2) For temporary promotions.
  - (3) For reassignments or transfers when to the same or lower payband level.
  - (4) For statutory restoration to duty after military service.
  - (5) For promotion to a position from which the employee was demoted without personal cause.
  - (6) When a position is converted from APF to NAF funding and the incumbent of the position is appointed.

## **2-30. CRP referral lists**

- a. The appropriate roster maintained by CFSC for the position to be filled will be the primary source of candidates for a referral list. Identification of qualified candidates for inclusion on a referral list will be accomplished in accordance with competitive promotion procedures. In preparing a referral list, DA Form 3800 (Career Referral List—Nonappropriated Funds), consideration will be given to such factors as type and length of experience, education and self-development efforts, performance appraisals, availability for a locality and recognition for achievements.*

- b.* A referral list will normally contain the names of at least three candidates for a position.
- c.* A referral list may include eligibles nominated by the command having the vacancy, provided they are qualified candidates. It may include names of employees eligible to be promoted, those desiring reassignment, and also qualified outside applicants.
- d.* Individuals who are included on the referral list will be notified of referral by CFSC at the time of issuance of the referral list.
- e.* If there are insufficient available candidates on the referral list, an Army-wide announcement will be issued by the CRP Manager. If there are still insufficient candidates, the CRP Manager will authorize local recruitment.

## **2-31. CRP selection**

- a.* Selection will be made from referral lists for all positions covered in paragraphs 2-25e and f, except as specified in paragraph 2-29b.
- b.* When it is found that the position cannot be filled from the referral list, additional names may be requested. Justification for not selecting each available eligible on the list must be submitted with the request before additional names will be provided. In the event that the proposed salary range is changed, a new referral must be issued.
- c.* Priority consideration will be applied as described, and in the order specified, in para 2-9(a)(1) – (4). Documentation requirements are as specified in para 2-9b and para 2-10.
- d.* The selecting official will review the qualifications of the eligibles on the referral list and may make inquiries about candidates. Personal interview arrangements are the responsibility of the gaining activity. Final selection will be made of the individual considered by the selecting official to be best qualified for the position.
- e.* Available information regarding the job, living conditions, and costs involved in the transfer will be provided to the candidates by the selecting official.
- f.* The servicing CPAC/NAF-CPU of the gaining NAFI will notify the candidate of selection, negotiate with the losing NAF activity on a release date, and complete any administrative arrangements necessary for the transfer of the selectee.
- g.* When a selection has been made, all candidates who were referred, but were not selected, will be notified of nonselection by the Central Referral Program Manager.
- h.* Employees will be released for new assignments as soon as possible but not later than 30 days after selection (see para 2-34d).
- i.* On selection, the OPF of the selectee will be requested by the employing office of the gaining NAFI.
- j.* If no candidate is selected from the referral list, the list, with any attachments and the reasons for nonselection, will be returned promptly to CFSC for additional candidates, or local recruitment authority.
- k.* Records of all referral actions will be retained for 5 years. Such records will contain sufficient information to permit reconstruction of the referral action.
- l.* Vacancy announcements for positions at level NF-4 and above will indicate that priority consideration will be given to current and former NAF employees, and that a DoD APF employee serving in a position without time limits will be afforded current employee status if the candidate has served continuously at least one year in an APF position.

## **2-32. CRP funding**

See paragraph 2-1m in regard to authorization for payment from a NAFI for the cost of travel and transportation of household goods of NAF employees.

## **2-33. Removal of names from central rosters**

Names of employees will be removed from the central rosters when the employee fails to reply within 15 calendar days to inquiries regarding availability, or refuses at least two positions in localities and at salaries indicated acceptable, or is separated from NAF employment.

## **2-34. Competitive promotions**

- a.* Since vacancies (except those covered by the CRP) will be advertised and all employees who apply under vacancy announcements will be considered for the vacancies, installations are not required to establish promotion plans. The advertising of vacancies as required in paragraph 2-4 ensures consideration of interested employees. Competitive procedures will be applied when filling a position with known promotion potential by reassignment or transfer. Competitive procedures will be used in filling positions by temporary promotions in excess of 120 days.
- b.* The qualifications of candidates will be evaluated by fair and equitable methods. Written tests will not be used, unless necessary to determine the possession of a skill required by the position.
- c.* The qualified candidates will be identified and referred to the selecting official. Selection will be made from this list by the selecting official.
- d.* An employee normally will be released by the losing NAFI within 15 days after selection is made for promotion but in all cases within a 30-day period after selection.
- e.* Adequate records will be maintained for a 5-year period after selection to permit full review of the promotion

action. Such records ordinarily will include the vacancy announcement, names of candidates, their resumes, records of the evaluations made, and a copy of the referral list from which selection was made.

*f.* The effective date for promotion actions will be the beginning of the first pay period after the action has been properly authenticated by the servicing CPAC/NAF-CPU.

## **2-35. Noncompetitive promotions**

Publicity of vacancies is not required for noncompetitive promotion actions. The following are exceptions to the competitive promotion process:

- a.* Employees serving in trainee, understudy, developmental, or apprentice positions.
- b.* An employee being promoted to the position to which he/she was temporarily promoted or otherwise placed by use of the competitive procedures.
- c.* An employee in a position upgraded on the basis of new position classification standards or for correction of the classification of the position, without significant change in duties or responsibilities.
- d.* Repromotion of an employee who was not demoted for personal cause.
- e.* Temporary promotion not to exceed 120 days. This temporary promotion may not be extended or converted to permanent without competitive action.
- f.* Employees in positions meriting reclassification/redesignation to a higher grade/level due to the addition of duties and responsibilities that are the result of planned management action or gradual accrual of duties may be promoted noncompetitively when the following requirements are satisfied:

- (1) There are no other employees supervised by the selecting official who are performing identical duties (at the same grade or pay level) to those performed by the employee prior to addition of the duties and responsibilities.
- (2) The employee continues to perform the same basic function(s) as were in the former position and the duties of the former position are administratively absorbed into the new position.
- (3) The addition of the duties and the responsibilities does not result in an adverse impact on another encumbered position.
- (4) The employee meets all qualification requirements for the position.

## **2-36. Information available to employees**

The following information about a specific promotion action will, upon request, be provided to an employee or to an authorized employee representative:

- a.* Whether the employee was eligible and considered on the basis of the applicable minimum qualification requirements.
- b.* Who was selected for promotion.
- c.* How the employee can improve to increase future promotion potential.

## **2-37. Complaints**

Complaints about promotions may be processed through use of the grievance procedures and may be filed only by an employee impacted by the action by virtue of his/her own non-selection. Other than for reasons alleging discrimination, grievance procedures may not be utilized to challenge nonselection for promotion from a list of properly certified candidates. An outside applicant may not challenge his/her nonselection based upon the policy of priority consideration for current and former NAF employees and/or veterans.

# **Chapter 3**

## **Classification and Pay**

### **Section I**

#### **General**

### **3-1. Coverage**

Except as otherwise provided for by statute, the provisions of this chapter apply to all NAF employees within the US and to all NAF employees who are US citizens (and, when authorized by host country agreements, non-US citizen spouses) in foreign areas.

### **3-2. Provisions**

- a.* In no case will the pay rate of US citizens and bona fide resident aliens employed in the US or its territories or possessions be less than the current applicable Federal, State, or municipal minimum wage, whichever is higher. Unless prohibited by treaty, the pay rate of US citizens employed in foreign areas will be no less than the Federal minimum

wage, except that compensation for summer and student employees will be in accordance with the special pay schedules issued by DoD.

b. No employee's aggregate compensation (basic pay plus any allowances, differentials, bonuses, awards, or other cash payments) shall exceed the annual rate then payable for Level I of the Executive Schedule as of the end of the calendar year. Aggregate pay will be in conformance with 5 CFR Part 530, Subpart B.

c. Active duty commissioned and warrant officers may not be employed as NAF employees.

d. OPM is responsible for administering the Fair Labor Standards Act (FLSA). A NAF employee alleging an FLSA violation has the right to file an administrative claim under the negotiated grievance procedures or directly with OPM when the employee is not a bargaining unit member or where no negotiated grievance procedures covering FLSA matters are in place. However, attempts to resolve complaints should be made at the installation level first. Certain employees in foreign areas are exempt under FLSA. See 5 CFR 551.209.

e. Levy for delinquent Federal taxes, alimony and child support, bankruptcy in accordance with applicable laws, and garnishments for commercial debts will not be accepted by the servicing CPAC/NAF-CPU. The officer serving the court order in person is to be informed that debt collection actions must be sent to the appropriate Defense Finance and Accounting Service (DFAS), and garnishment court orders received by mail will be returned to the sender with the correct mailing address for DFAS.

f. United States Army Europe (USAREUR) installations will continue to process debt collection actions in accordance with DFAS established procedures.

g. Recoupment may be made from an employee's pay in satisfaction of certain obligations to a NAFI, or for collection of overpayments of travel expenses paid from APF.

### **3-3. Classification and pay responsibilities**

a. The Assistant G-1 for Civilian Personnel Policy will:

(1) Develop and establish the policies, regulations and procedures for the position and pay management program to be used by nonappropriated fund instrumentalities throughout the Army.

(2) Resolve problems connected with the development and application of wage and salary schedules.

(3) Provide position classification and position management criteria and guides.

(4) Ensure that the program is properly administered.

b. Major commanders will—

(1) Participate in the development of regulations, standards, procedures, and instructions governing the administration of the position and pay management program for NAF employees.

(2) Review and evaluate the program within their commands to ensure conformance with prescribed regulations, standards, instructions, pay rates and pay band levels.

(3) Adjudicate classification appeals for FWS positions.

(4) Conduct an annual sample verification or audit of one percent (1%) of classification and pay actions effected by local personnel offices. This requirement may be accomplished through subordinate command levels above the installation.

c. Installation commanders are responsible—

(1) For implementing position classification, position management, pay policy for pay band level employees, and pay entitlement regulations, standards, procedures, and instructions, and for acting on the initial stage of FWS classification appeals from employees within their command. The authority for position classification, pay determination for pay band system employees and authenticating personnel actions may be delegated. Delegations of authority must be in writing.

(2) When designated the host installation for wage surveys—

(a) To fully support the wage survey and ensure that the instructions of the DoD Wage and Salary Division (WSD) of the Civilian Personnel Management Service (CPMS), are carried out.

(b) To provide administrative, technical, and logistic support for the conduct of wage surveys, assisted as necessary by other installations or activities in the area.

(3) For providing assistance to other installations or activities in the area designated as the host for wage surveys.

(4) For authorizing NAF employee representatives to participate, without loss of pay or charge to leave, in hearings conducted by the Local Wage Survey Committee. However, absences of employees appearing as individuals will be charged to annual leave or LWOP as appropriate.

(5) For assuring that employees participating as data collectors are paid their basic rate of pay for all time spent in performance of that duty and are reimbursed for necessary travel costs.

(6) For conducting an annual desk audit or review of ten percent (10%) of positions.

(7) For conducting an annual audit or review of ten percent (10%) of pay actions.

d. Managers will—

(1) Assign duties and responsibilities to employees under their direction in a manner to ensure efficient and timely accomplishment of missions.



(2) Review duty assignments to determine whether or not officially approved position guides or job descriptions are current and initiate required changes.

(3) Assure that employees are scheduled to work for at least the minimum hours specified on DA 3434.

### **3-4. Basic requirements for pay**

a. All requirements of appointment or assignment to a particular position, as prescribed in chapter 2, must be met before any compensation may be paid to an employee. Additionally, each position must be reflected on the PRD.

b. Officially authenticated time and attendance reports are required before any payment may be made for pay purposes. Supporting documents as required by this regulation must be verified prior to submission of electronic time and attendance reports when required by this regulation.

c. The duties of positions must be described, authenticated by the appropriate supervisor, recorded in writing, and evaluated for the appropriate title, series, grade or pay level by reference to applicable classification and job grading standards and guides. FWS positions will be graded in accordance with OPM Federal Wage System Job Grading Standards and the DoD Job Grading System Manual for Nonappropriated Fund Instrumentalities. Pay band system employees are graded or assigned to the proper pay band level consistent with para 3-13 of this regulation. All caregiving (CC) positions will be assigned to a standard position description in accordance with paragraph 3-20 of this regulation. New or revised standards shall be applied within six months of the effective date of the standard.

d. The servicing CPAC/NAF-CPU will determine the FLSA status in accordance with 5 CFR 551, Subpart B.

e. Standard job descriptions and position guides will be used. In situations where a standard does not exist, the installation will establish the position using delegated authority and forward the job description or position guide through the MACOM to HQDA (DAPE-CP-NAF) for inclusion in the NAF job description/position guide library for Army-wide use. If guidance is needed to classify or establish a position under this section, a request for an evaluation decision should be forwarded to the next higher command. The request must include the primary and major duties of the position to be evaluated, job description or a functional and organization chart for the organization in which the position is located; and an evaluation statement containing a justification of the title, series, and grade or pay level considered appropriate.

## **Section II Federal Wage System**

### **3-5. General**

a. The Federal Wage System (FWS) includes all crafts, trades, and labor positions that are paid on a locality rate basis. The pay of these positions is fixed and will be adjusted from time to time in line with the rates paid by private employers to full-time employees in wholesale, retail, services, and recreational establishments in the locality of employment. Wage schedules are transmitted directly to installations by the DoD Wage and Salary Division, CPMS. More detailed information may be found in the OPM Operating Manual, Federal Wage System - Nonappropriated Fund (FWS-NAF).

b. Identification. The following coding system is used to identify FWS employees:

- (1) NA-nonsupervisory positions in trades, crafts and labor occupations.
- (2) NL-leader positions in trades, crafts, and labor occupations.
- (3) NS-supervisory positions in trades, crafts, and labor occupations.

c. The grade structure for prevailing rate positions is as follows:

- (1) NA 1-15 Grades.
- (2) NL 1-15 Grades.
- (3) NS 1-19 Grades.

d. Basic rate of pay is the scheduled rate of pay plus any shift or environmental differentials.

### **3-6. FWS within-grade Increases**

a. All FWS employees regardless of their employment category are entitled to within-grade increases provided they meet eligibility requirements.

b. An eligible employee, who has not reached the maximum rate of the grade to which assigned, will be advanced successively to the next higher rate at the beginning of the pay period following completion of the prescribed waiting period, provided they have not received an equivalent increase for any reason during the waiting period, and provided performance is satisfactory or better.

c. For determination of an equivalent increase, see OPM Operating Manual, FWS-NAF, paragraph S8-5.

### **3-7. Creditable service for within-grade increases**

a. Creditable service in the computation of a waiting period is continuous civilian employment in any branch of the Federal Government (executive, legislative, or judicial) or in the Government of the District of Columbia, or in a DoD or Department of Transportation NAFL.

b. All service, as defined above, in a pay status is creditable, including periods of sick, annual, or other paid leave,

advanced sick leave, and advanced annual leave. For regular employees, a limited amount of leave without pay is creditable, as indicated in table 3-1.

**Table 3-1**  
**Creditable leave without pay**

Category of Employee	Step Rate Maximum	Weeks in Nonpay status
NA, NL, NS	2	1
	3	3
	4, 5	4

### 3-8. Duration of waiting periods

The days or calendar periods specified below must have been served at the rate of the grade next below that rate to which the employee is to be advanced at the end of the waiting period. The required number of days may not be earned by a FLX employee in a period of time less than the period prescribed as the waiting period for a RFT or RPT employee in the same step.

a. Table 3-2 applies to RFT, RPT and FLX (scheduled) employees with guaranteed hours and specifies the waiting periods in terms of calendar weeks. Any week in which service is performed is counted as a full week. To distinguish FLX (scheduled) employees, the minimum guaranteed hours will be reflected in item 25 of DA 3434. Table 3-3 applies to FLX (as needed) employees and specifies the waiting periods in terms of calendar days in a pay status. Only the days on which service is performed are counted. Any day on which service is performed is counted as a full day.

b. Upon separation of a FLX employee the number of days/weeks worked since the last within-grade increase, as reflected on the most recent NAF Payroll Report (Employee Cross Reference Roster) will be included in item 25 of DA Form 3434.

**Table 3-2**  
**Duration of waiting periods for employees with regular schedules**

Category of Employee	Step Rate	Waiting Period in Weeks
NA, NL, NS	2	26
	3	78
	4, 5	104

**Table 3-3**  
**Duration of waiting periods for FLX (as needed) employees**

Category of Employee	Step Rate	Waiting Period in Days	Over a period of no fewer than
NA, NL, NS	2	130	26 calendar weeks
	3	390	78 calendar weeks
	4, 5	520	104 calendar weeks

### 3-9. Beginning of a waiting period

a. A new waiting period begins—

- (1) On initial appointment or promotion to a position subject to the provisions of this regulation.
- (2) After a break in service or after non-pay status, either of which has been in excess of 52 calendar weeks.
- (3) On receiving an equivalent increase.

b. The effective date of a within-grade increase for an eligible employee is the beginning of the first pay period following completion of the required waiting period.

c. When the effective date of a within-grade increase and the effective date of a personnel action are the same, the actions will be processed in the order giving the employee the greater benefit.

### 3-10. Determining FWS rates of pay

a. New appointments will be made at the minimum rate for the appropriate grade, except as follows:

- (1) Installation commanders are authorized to make appointments at the second step rate of the appropriate grade in

recognition of special qualifications, skills, and experience of an exceptional or highly specialized nature. When such appointments are made, item 25 of DA Form 3434 will contain a reference to this paragraph.

(2) Authority to appoint above the first step rate for a hard-to-fill position may only be granted by DoD. Requests for appointments above minimum rates will be forwarded through command channels to HQDA (DAPE-CP-NAF). Requests will contain sufficient detailed recruitment information on specific grades and occupations to support a finding that installations and activities in the wage area cannot recruit qualified employees at the minimum rate. Coordination with other military services and exchanges on the same wage schedule must be accomplished prior to forwarding the request.

*b.* Upon reemployment and reinstatement the entrance salary may be fixed at any rate for the appropriate grade that does not exceed the rate paid in the previous position. However, if the highest previous rate falls between two rates of the grade, the employee may be paid at the higher rate.

*c.* Upon promotion—

(1) An employee is entitled to be paid at the lowest scheduled rate of the grade which exceeds the existing rate of pay by no less than the difference between the 4th and 5th step-rate of the grade from which promoted.

(2) If there is no rate in the higher grade which meets the requirements of (1) above, the employee will receive the greater of the maximum scheduled rate of the higher grade or the existing or retained rate of pay.

*d.* Upon change to a position with a lower representative rate that has been effected through no fault of the employee, nor at the employee's request, the rate of pay will be fixed at the highest rate of the new grade which does not exceed the highest previous rate. However, if the highest previous rate falls between two rates of the grade, the rate of pay will be fixed at the higher rate.

*e.* In exceptional cases, the installation commander may request the establishment of special rates or rate range for specialized FWS occupations critical to the mission of a NAFI. The request will be forwarded through command channels to HQDA (DAPE-CP-NAF). Requests may be made only when the following conditions are present:

(1) Serious recruitment and retention problems exist.

(2) Rates on the authorized NAFI regular schedule are inadequate for the recruitment and retention of qualified employees.

(3) Authorization of increased minimum rates for the occupations as provided in a(2) above did not solve the problem.

### **3-11. FWS premium pay**

*a. Overtime pay.* All FWS employees are entitled to overtime pay for work in excess of eight hours in a day or in excess of 40 hours in the administrative workweek whichever provides the greater benefit to the employee. However, these employees may request compensatory time off in lieu of overtime pay. When compensatory time off is not used within 26 pay periods, the employee will be paid for the hours worked at the overtime rate in effect at the time the work was performed. When employees separate or transfer from the NAFI any balance of compensatory time will be paid at the overtime rate in effect at the time the work was performed.

*b. Sunday pay.*

(1) Sunday premium pay is 25 percent of basic pay.

(2) Only RFT employees who work 40 hours per week are entitled to Sunday premium pay.

(3) An employee is entitled to the basic rate of pay plus Sunday premium pay for all hours of a regularly scheduled non-overtime tour of duty when any part of the scheduled tour is performed on Sunday. When there are two such tours on the same Sunday, the entitlement is to Sunday premium pay for all non-overtime hours of work on each tour not to exceed 8 hours per tour for a maximum of 16 hours.

(4) RPT and FLX employees are not entitled to Sunday premium pay.

*c. Night shift differential.*

(1) An FWS employee will be paid a night shift differential of seven and one-half percent for the entire shift when a majority of the employee's regularly scheduled non-overtime hours of work fall between the hours of 1500 and 2400.

(2) An FWS employee will be paid a night shift differential of 10 percent of the scheduled rate if the majority of non-overtime work hours occur between 2300 and 0800.

(3) Night shift differential will be paid for all regularly scheduled work.

(4) For purposes of determining entitlement to night shift differential, work that is scheduled at least a week in advance is entitled to night shift differential regardless of the amount of prior notice given to an employee.

(5) In determining a majority, the number of whole hours greater than one-half of the scheduled shift is counted. Night shift differentials are included in the rates of basic pay that are used for computing overtime pay, Sunday pay, retirement and group life insurance, and severance pay. An employee who is regularly paid night shift differential will continue to receive such differential during a period of paid leave, when excused from night work on a holiday, and when in an official travel status during the hours of the regular shift.

(6) When employees who are assigned to a night shift are temporarily assigned to the day shift or a night shift with a lower differential, they are entitled to continue to receive the current night shift differential.

*d. Holiday pay.* All regularly scheduled (including regularly scheduled flexible employees) employees are entitled to holiday pay under the following conditions:

(1) An employee eligible for holiday pay who is precluded from working due to observance of a holiday is entitled to the basic rate of pay for scheduled non-overtime hours.

(2) An eligible employee who is required to perform work on a holiday that falls within their regular schedule will be paid the basic rate plus premium pay at a rate equal to the basic rate of pay for scheduled non-overtime hours.

(3) Premium pay for holiday work is in addition to overtime pay, night shift differential, or premium pay for Sunday work and is not included in the rate of pay used to compute overtime pay, night shift differential or Sunday premium pay.

(4) To be eligible for holiday pay, an employee must be in a pay status immediately before or immediately after the holiday.

(5) FLX as needed employees have no entitlement to holiday pay.

(6) See chapter 4, for instructions on determining holidays.

### **3–12. Grade and pay retention**

*a. This is applicable to—*

(1) Employees whose employment is not on limited tenure appointment who are demoted from one FWS position to another FWS position pursuant to Sections 5361 through 5366 of Title 5, USC. It does not apply to demotions into or out of another pay system.

(2) Employees whose FWS positions are involuntarily converted from APF without a break in service greater than 3 days pursuant to the DoD Employee Benefit Portability Program.

*b. Grade and pay retention is provided to FWS employees under certain circumstances when a covered employee's grade or pay would otherwise be reduced. Detailed requirements and procedures are outlined in OPM Operating Manual, FWS–NAF. The following are the principal features of the law:*

(1) A 2-year period of grade retention during which the employee receives the full amount of all wage increases and step increases that would normally have been granted during the period.

(2) Following the end of the grade retention period, the employee is entitled to the lower of the rate of basic pay payable immediately before the reduction in grade, or 150 percent of the maximum rate of the grade to which reduced. During this pay retention period, the employee is also entitled to 50 percent of the amount of each increase in the maximum rate of basic pay payable for the grade to which demoted. This period of pay retention continues until the employee has a break in service of one workday; is entitled to a rate of basic pay, or declines a reasonable offer of such a position with a rate of basic pay, that is equal to or higher than the rate to which the employee is entitled by virtue of the pay retention provisions of 5 USC 5363 or; is demoted for personal cause or at the employee's request.

(3) Eligibility for (1) and (2) above is as follows:

(a) When the demotion is the result of a BBA the employee must have served for 52 consecutive weeks in one or more positions at a grade or grades higher than that of the new position.

(b) When the demotion is due to reclassification, the position must have been classified at the higher grade for a continuous period of at least one-year immediately before the reduction. There is no specified period of incumbency in this situation.

(4) Grade retention ceases to apply when an employee is demoted for personal cause or at his/her own request; is placed in or declines a reasonable offer of a position the grade of which is equal to or higher than the employee's retained grade, or has a break in service of one workday or at the employee's written request.

(5) Remedial actions must be taken to assure priority consideration for placement of covered employees in positions equal to their retained grade and pay.

## **Section III**

### **Pay Band System**

#### **3–13. Pay bands**

*a. General.* The pay band system is designed to foster competitive wages, strengthen the link between pay and performance, and provide a streamlined and efficient classification and pay process. It replaces the traditional grade and step system with one that groups work of similar levels of skill and responsibility into broad bands. It assigns a pay range to each band and permits pay to be fixed within the range. Employees in the pay band system are designated NF, followed by a numerical pay level from 1 to 6.

*b. Coverage.* All clerical, administrative and professional white collar positions world-wide except:

(1) Local national positions in foreign areas.

(2) Child and youth positions included in the CYPPP.

*c. Structure.* The structure of the pay band system is shown in Table 1, Appendix A, DoD 1400.25–M, Chapter 1400, Subchapter 1405. For each band or level the figure shows the basic characteristics of work covered and examples

of jobs covered. Additional guidance for classifying jobs to the correct payband level is contained in Appendix A of DoD 1400.25-M, Chapter 1400, Subchapter 1405.

*d. Establishment of executive positions and appointments.* Establishment of executive positions and appointments to positions at level NF-6 require the approval of the Deputy Chief of Staff, G-1 prior to any action to establish or fill the position. NF-6 level positions are equivalent to the Senior Executive Service (SES) positions.

*e. NAF pay band* NAF pay band (NF) positions will be established in accordance with para 3-3 and 3-4.

### **3-14. Pay band pay schedules**

#### *a. General.*

(1) Minimum/maximum for levels NF-1 and 2 and minimum for Level NF-3 in non-foreign areas. The prevailing rates are determined by DoD Wage and Salary Division (WSD), CPMS, and surveys of wages paid to employees in a representative number of retail, wholesale, service and recreation, finance and insurance establishments, in the immediate locality who are engaged in activities similar to those in the NAFI. The WSD issues separate pay schedules for each geographical area surveyed. The effective dates of schedules vary depending on the survey dates. To aid pay setting decisions, a pay report is attached to each schedule. It contains the average hourly rate of pay, the range of pay from high to low for certain surveyed jobs, and the amount of change from the previous schedule.

(2) Minimum/maximum for levels NF-1 and 2 and minimum for NF-3 in foreign areas. These are fixed by the WSD starting at the Federal minimum wage and bridging into NF level 3. Since locality data is not available in foreign areas, a pay report is not developed for this schedule.

(3) Maximum for level NF-3 and minimum/maximum NF-4 through NF-6. The minimum rates for NF-4 through NF-6 will be adjusted by a percentage equal to any "national" Employment Cost Index (ECI) percentage increase for GS employees, rounded down to the nearest \$500. The maximum rate for NF-6 will be adjusted to equate to the rate for Level III of the Executive Schedule, in accordance with 5 U.S.C 5373, except that in no case may an NF-6 employee receive a rate greater than the maximum schedule rate authorized for APF SES employees in the same locality. The maximum rate for NF-5 will be adjusted to equate to the highest GS-15, step 10, locality pay rate. The maximum rates for NF-3 and NF-4 will be adjusted to equate to 40 and 63 percent, respectively, of the NF-5 maximum rate, rounded up to the nearest \$500.

#### *b. Determining rates of pay.*

(1) Pay may be fixed at any amount within the applicable pay level upon: appointment, reemployment, reinstatement or transfer.

(2) Pay may be fixed at any amount within the applicable pay level upon reassignment, which is defined as movement between positions in the same pay level.

(3) Upon promotion, which is defined as movement from one pay level to a higher pay level, the employee must receive a minimum 5 percent increase.

(4) Increases in pay are authorized to recognize work performance (See Chapter 9).

*(a)* When the increase is for performance, DA Form 5167 (Incentive Awards Nomination and Approval—NAF) will be prepared indicating the new rate of pay, with justification blocks on the reverse side completed. The servicing CPAC/NAF-CPU will prepare DA Form 3434 for each pay adjustment. Pay may not be adjusted above the maximum of the pay level.

*(b)* The purpose of the pay for performance system is to motivate employees to achieve the highest level of performance possible based upon the expectation of recognition and financial reward. This requires that a clear statement of the installation reward policies be made known to all employees. In establishing an installation policy, it is important that there be consistency for all activities. Each operating budget must include sufficient funds to support the installation policy on pay adjustments. A procedure should be established at the installation level to monitor demographic representations in rewards.

*(c)* Employees with less than a satisfactory performance rating are ineligible for a performance-based pay adjustment.

(5) Pay may be adjusted within the pay band level to achieve comparability when there is a significant variance from private sector wages in that locality for the particular occupation.

(6) Upon change to lower level, which is movement to a position in a lower pay level, pay may be adjusted to any amount within the lower level.

(7) Upon involuntary movement of an APF employee to a NAF position without a break in service in service of more than 3 calendar days, under the DoD Employee Benefit Portability Program pay shall be set within the payband for the pay level to which assigned at a rate that is not less than the employee's GS scheduled annual rate of pay, plus the corresponding locality pay, before the move. If this amount exceeds the maximum rate of the payband level to which moved, pay retention is required in accordance with Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) memorandum of April 16, 1991. An employee's pay may be reduced by BBA, a change in duty station to an area with a lower locality rate of pay, performance based action, disciplinary action, classification error, or an employee job reassignment request. When due to a classification error, pay must be reduced within 60

calendar days of the reclassification. Compliance with all procedures and notice periods associated with these actions is required.

### **3-15. Pay band premium pay**

#### *a. Overtime.*

(1) In geographic areas covered by the FLSA, position guides containing executive, administrative, and professional duties, as described in 5 CFR 551, Subpart B, shall be annotated as "Exempt". Those positions that do not meet the test for exemption as prescribed in 5 CFR Part 551, shall be annotated "Nonexempt" on the position guide. No duties or responsibilities shall be added to a position in pay levels 1 or 2 which would cause that position to be evaluated as "exempt". The servicing CPAC/NAF-CPU will make the determination of positions to be designated "Exempt".

(2) Employees in geographic areas covered by the FLSA will be paid in accordance with the following rules:

(a) *Nonexempt employees.* Employees identified as nonexempt must be compensated for all hours of work in excess of 40 hours per week pursuant to 5 CFR Part 551. Only actual hours of work are counted toward the 40 hours in a workweek. Periods of paid leave or holiday leave are not included. If overtime work is either "suffered and permitted" or authorized in advance, compensation at 1½ times the employee's hourly regularly rate of pay must be paid for the overtime hours. See 5 CFR 551.111 and 551.112. Compensatory time off is not authorized except as it may be applied to those on flexible work schedules per 5 USC 6123(a)(1).

(b) *Exempt employees.* No employee identified as "exempt" may be paid overtime or given compensatory time off unless the overtime pay or compensatory time off is specifically authorized in advance by the employee's supervisor. The doctrine of compensation for hours "suffered and permitted" to be worked does not apply to exempt employees. If local command policy authorizes overtime pay for exempt white collar employees, it will be paid at 1½ times the basic pay rate for hours that exceed 40 in a duty status in a workweek, provided the employee's basic rate does not exceed the locality rate for GS-10, step 1; when it exceeds this locality rate, the overtime rate will be 1½ times the basic rate for GS-10, step 1. If an employee is in a paid leave status or absent on compensatory time during the administrative workweek, the employee must be in a duty status an equal period of time before any remaining period may be paid for at overtime rates on the basis of exceeding 40 hours in a workweek. If compensatory time is authorized and earned, it will be entered on the time and attendance report; if not used within 26 pay periods the employee will be paid for the hours worked at the overtime rate in effect at the time the work was performed. When the employee is separated or transferred any balances of compensatory time will be paid at the overtime rate in effect when the work was performed.

(3) Employees in foreign areas outside the coverage of the FLSA may be paid overtime or given compensatory time for work directed to be performed in excess of 40 hours a week. If overtime pay or compensatory time is authorized it will be computed in accordance with the procedures described in paragraph 3-15a(2)(b) above.

(4) The basic rate is the rate of pay assigned to a position before any deductions and exclusive of additional pay of any kind.

b. *Sunday Pay.* Sunday pay may be authorized by the installation commander when it is determined that such pay is necessary for recruitment and retention purposes. When authorized, Sunday premium pay will be paid at the rate of 25 percent of basic rate for all hours of a non-overtime tour of duty, when any part of the scheduled tour is performed on Sunday. The maximum number of hours for which Sunday pay may be authorized is 8 hours per Sunday. Only Regular (full-time, part-time, limited tenure and seasonal) employees may be paid Sunday premium pay.

c. *Night differential.* Night differential may be authorized by the installation commander when it is determined that such pay is necessary for recruitment and retention purposes. When authorized, night differential will be paid at the rate of 10 percent of basic rate for hours of non-overtime work performed between 1800 and 0600 hours. Payment of night differential continues during periods of paid leave and official travel. Night differential may be authorized for all categories of employees.

d. *Holiday pay.* Holiday pay may be paid only to regular (full-time, part-time, limited tenure and seasonal) employees, under the following conditions:

(1) An employee eligible for holiday pay who is precluded from working due to observance of a holiday is entitled to the basic rate of pay for regularly scheduled non-overtime hours as if he or she had worked.

(2) An eligible employee who is required to perform work on a holiday that falls within his or her regular schedule will be paid the basic rate plus premium pay at a rate equal to the basic rate of pay for scheduled non-overtime hours.

(3) Premium pay for holiday work is in addition to overtime pay, night differential, or premium pay for Sunday work and is not included in the rate of pay used to compute overtime pay, night differential or Sunday premium pay.

(4) To be eligible for holiday pay, an employee must be in a pay status immediately before or immediately after the holiday.

(5) See chapter 4 for instructions on determining holidays.

(6) In the event that the occurrence of a holiday precludes a scheduled FLX employee from working and the guaranteed hours can not be met, administrative leave will be authorized for the hours scheduled on the holiday.

## Section IV

### Child Care (CC) Pay System

#### 3-16. General

a. The Child and Youth Personnel Pay Program (CYPPP) was initially designed to meet the requirements of the Military Child Care Act of 1989. The CYPPP issued in Feb 1999 and the CPPP, issued in March 1990, provides information on resources, training and evaluation of the program. Copies of the CYPPP and CPPP may be obtained from the installation CDS. The CC pay-band system is an integral part of the total program and is intended to align NAF caregiver pay rates with the rates of GS employees as a method of reducing turnover.

b. Positions are assigned to the occupational series 1702 and are designed to be interchangeable with similar positions at the GS 02 to GS 05 levels. Employees in these positions are identified by the code CC and are paid under a pay-band system. The pay-band system replaces the traditional grade and step system.

#### 3-17. CC structure

The CC pay-band system is comprised of two pay levels or bands. Band I has a minimum rate that is equal to the rate of GS-02, step 1, and a maximum rate equal to GS-03, step 10. Band II has a minimum rate equal to GS-04, step 1, and a maximum rate equal to GS-05, step 10 (all rates include applicable locality pay).

#### 3-18. CC schedule changes

When changes are made to the General Schedule, all CC employees will have their rate of pay adjusted in the same amount as specified for the particular change in that geographic area.

#### 3-19. Classification of CC positions

Standard job descriptions have been established for all caregiver positions in the CC pay system. The use of these job descriptions is mandatory and no changes are authorized to be made. All positions are assigned to the occupational series 1702, Education Aid. The basic position of Child and Youth Development Program Assistant has been engineered to permit entry at the base level with progression through the intermediate level to the full performance level. Movement through these levels is noncompetitive upon completion of required training and attainment of the competence and experience associated with each level. The positions in the CC system are reflected here in table 3-4.

**Table 3-4**  
**NAF CYPPP positions**

Positions	Level
Program Assistant (Entry-02)	CC Level I
Program Assistant (Intermediate-03)	CC Level I
Program Assistant (Full performance-04)	CC Level II
Program Leader (05)	CC Level II
Program Technician (05)	CC Level II

#### 3-20. Determining rates of CC pay

a. The rate of pay at the entry level (CC-02) will be set at a rate within Pay Level I competitive with other local wages that will provide qualified candidates. Factors, such as difficulty in filling positions and retention problems, must be considered in establishing pay rates.

b. Upon movement from CC-02 (Entry) to CC-03 (Intermediate) and from CC-03 to CC-04 (Full performance), pay is increased by a minimum of 6 percent; however, management may provide an increase greater than 6 percent within the pay band.

c. Upon reemployment, reinstatement, or transfer the rate of pay will be set at the level at least equivalent to the employee's most recent CC level.

d. Pay may be fixed at any rate within Pay Level II for CC-05 (program leader or technician) positions.

#### 3-21. Premium pay

Overtime, Sunday pay, night differential, and holiday pay will be paid in accordance with paragraph 3-15.

#### 3-22. Mandatory assignment to target level

Caregivers must complete training requirements in accordance with the CYPPP. Management will notify the servicing CPAC/NAF-CPU (DA Form 4017) when training and experience requirements have been met, and performance is judged to be at least satisfactory. The employee will be advanced to the next level non-competitively. Management will

notify the servicing CPAC/NAF-CPU when requirements have not been met and the employee will be processed for separation for disqualification. (See chap 2, para 2-16i).

## **Section V**

### **Miscellaneous Pay Provisions**

#### **3-23. Compensatory overtime for religious observance**

a. An employee may request to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious belief requires that the employee abstain from working during certain periods of the workday or workweek.

b. An employee who elects to work compensatory overtime for this purpose shall be granted, instead of overtime pay, an amount of time off from his or her scheduled work (hour for hour) equal to the compensatory overtime worked.

c. An employee's request to work compensatory overtime or to take compensatory time off to meet his or her religious obligations may be disapproved by the installation commander if such modifications in work schedules interfere with the efficient accomplishment of the assigned mission.

#### **3-24. Hazard and environmental differentials**

Payment of such differentials for pay band (NF) employees will be made in accordance with DoD requirements and for FWS employees in accordance with OPM Operating Manual, FWS-NAF.

#### **3-25. Severance pay**

a. Eligible Employees. Regular employees who have completed at least 12 months of continuous creditable service (see subparagraph e below) with one or more DoD Nonappropriated Fund Instrumentalities (NAFIs) are eligible for severance pay. The continuous service qualifying the employee for severance pay must have occurred within the 12 months preceding the effective date of the business-based action (BBA).

b. Conditions Under Which Eligible Employees Receive Severance Pay. An eligible employee shall receive severance pay when, as a result of a BBA:

(1) The employee is separated. An employee who resigns following receipt of a specific written notice of separation due to BBA or a general written notice that announces that all positions will be abolished is considered to have been involuntarily separated.

(2) The employee's basic pay is reduced, and the employee resigns instead of accepting the reduction.

(3) The employee's employment category is involuntarily changed from regular full-time to regular part-time and the employee resigns instead of accepting the change.

(4) The employee's employment category is involuntarily changed from regular to flexible.

(5) The employee is furloughed for more than 60 consecutive days and resigns instead of accepting the furlough.

c. *Computation of Severance Pay.* The amount of severance pay shall be based on the number of hours the employee is regularly scheduled to work during the week, averaged over the 12 months immediately preceding the separation.

(1) One week of pay at the rate of basic pay the employee was receiving immediately before separation for each full year of creditable service through 10 years.

(2) Two weeks of pay at the rate of basic pay the employee was receiving immediately before separation for each full year of creditable service beyond 10 years; and

(3) Twenty-five percent of the otherwise applicable amount for each full 3 months of creditable service beyond the final full year.

d. In no case will severance pay exceed 52 weeks of basic pay.

e. Creditable Service used in computing severance pay. Except as described below, the following is creditable service for purposes of computing severance pay:

(1) Service in a pay status as a regular employee in one or more DoD NAFIs.

(2) Service in a continuing APF position, if the employee moved from a DoD APF position to a DoD NAF position on or after January 1, 1987, without a break in service of more than three days.

(3) Military service that interrupted creditable service as prescribed in chapter 43 of 38 U.S.Code.

f. *Exclusions from creditable service.* The following service may not be included in creditable service for purposes of severance pay computation:

(1) Service upon which a NAF or civil service annuity is based, if the annuity began before the date of the BBA.

(2) Periods of service for which NAF or APF severance pay was previously granted.

(3) Service used to determine an employee's APF severance entitlement under the provisions of 5 U.S.C. 5595(h). When an employee who is entitled to APF severance pay is separated by BBA, the CPAC/NAF-CPU will provide the employee's previous APF employing office with documentation of the BBA separation, the service credited in the computation of NAF severance pay and the amount of the severance payment.



- g. The amount of severance will be paid in a lump sum payment.
- h. Exclusions from severance pay. Severance pay will not be paid when the employee—
  - (1) Was separated because of misconduct, unsatisfactory performance, delinquency, disqualification, separation during a probationary period or from a limited tenure position, or any reason other than as a result of BBA.
  - (2) Has refused an offer of a DoD NAFI position that would not result in a rate of basic pay that is lower than the rate of basic pay received immediately before the BBA, or in a loss of employment category. Offers must be in the same commuting area, unless the employee is covered by an agreement in which mobility is a condition of employment.
  - (3) Is employed, without a break in service of more than 3 calendar days after separation, in another DoD NAF regular position or a DoD APF position, without a time limit on the length of the appointment.
  - (4) Is entitled to an immediate annuity that is not reduced because of the employee's age at the time of retirement. This exclusion covers an annuity from a NAF retirement plan, or from a civil service retirement plan in which the employee elected to remain following movement between employment systems under 5 U.S.C.8347(q) and 8461(n).
  - (5) Is receiving payments from the Department of Labor's Office of Workers Compensation Programs for a job-related injury.
- i. Overseas activities that have previously been granted exception authority by DA may continue to make severance payment in conformance with that exception.

### **3-26. Allowances and differentials**

#### *a. Foreign areas.*

- (1) US citizen NAF employees are authorized foreign area allowances and differentials as provided in DoD 1400.25-M, Chapter 1200, Subchapter 1250, "Overseas Allowances and Differentials." These allowances and differentials are payable to NAF employees pursuant to the same eligibility requirements and in the same amounts as prescribed for APF employees in the same foreign area.
- (2) All eligible RFT employees will be paid foreign area allowances and differentials in accordance with DoD 1400.25-M.
- (3) For purposes of identifying Living Quarters Allowance (LQA) Groups as depicted in Section 135.2, Department of State Standardized Regulations (DSSR), the following will apply:
  - (a) NF LEVEL 5 and 6- Quarters Group 2.
  - (b) NF LEVEL 4- Quarters Group 3.
  - (c) NF LEVEL 1-3- Quarters Group 4.
  - (d) CC LEVEL 1-2- Quarters Group 4.

Commanders may raise an employee in Quarters Group 4 to Quarters Group 3 when the employee has 15 years of service.

- (4) Local hire regular employees may gain entitlement to LQA, when, as a condition of continued employment, the employee is required by management direction to relocate to another commuting area.

*b. Non-foreign areas.* Payband employees in pay levels NF-3 and above, including ODM in those pay levels, and all CC employees are entitled to receive non-foreign area allowances and differentials in the same amounts and under the same eligibility criteria prescribed for APF employees in the same locality. A non-foreign area allowance or differential is not granted to employees in bands NF-1 or NF-2 since their rates already are based on the prevailing rate.

### **3-27. Dual pay**

Section 5533 of Title 5, USC, precludes pay from more than one position for more than an aggregate of 40 hours of work in a calendar week. This prohibition is applicable to employees in either APF or NAF positions or a combination thereof, including FLX appointments. Where an overpayment occurs in violation of this statute, the indebtedness is always to the US Treasury and not to the NAFI and is subject to the waiver provisions of section 5584 of Title 5, USC. This law is not applicable to ODM personnel in relation to their military duty.

### **3-28. Withholding taxes**

- a.* Federal income tax must be withheld from the compensation of civilian and ODM employees in conformance with the Internal Revenue Code. Payrolls include appropriate breakdowns of allowances and differentials not subject to Federal income tax or FICA tax, and that are excluded from the base pay reported on Treasury Department (IRS) Form W-2 (Wage and Tax Statement).
- b.* Deductions for State, county or municipal income tax will be made when applicable.
- c.* The FICA tax on wages, imposed by section 3101 of the Internal Revenue Code, will be deducted from the wages of employees. The excise tax on employers, imposed by section 3113, will be paid on such wages, as follows:
  - (1) Within the US, Puerto Rico, and the Virgin Islands, on wages of all employees irrespective of their citizenship.
  - (2) Within other areas, on wages of civilian employees who are citizens of the US and also on direct-hire foreign national employees who hold US permanent resident alien (PRA) status. Such taxes should be withheld for those who

elect to retain their PRA status. IRS does not make a distinction where the PRA lives or is employed. Whether they live in the US or a foreign country, they are considered a resident of the US and are taxed on income as such. Many PRAs may not be aware of their obligation to pay income and FICA taxes. Such employees should be advised that they must file tax returns. After they have been advised of the law, those who desire to revoke their PRA status must do so with INS Form 1-407, available at American embassies.

*d.* The FICA tax is deducted from payments of sick leave since such payments are in fact a continuation of wages.

### **3-29. Tips**

*a.* The IRS regulations establish procedures and requirements that must be understood and followed by both employee and employer in the administration of tips.

*b.* The words “tip” and “gratuity” are synonymous and are defined as an amount of money that a patron voluntarily gives to an employee. This money may be in the form of cash or may be added to a credit card or other charge in favor of the employee. A cash or charge tip must be disbursed to the employee/employees concerned and may not be retained by management. Voluntary tip-splitting arrangements or pooling of tips between the recipient of the tip and other supporting personnel is authorized.

*c.* Under IRS regulations, any individual who receives more than \$20 per month in tips must report the amount of such tips to his employer, since these tips are subject to payment of Federal income tax and the employee share of FICA tax. (Tips applied as an offset of wages (see para. 3-40) are subject to both employee and employer FICA tax.) The IRS requires that the employee report tips received on at least a monthly basis, but more frequently if management desires, in order to coincide with a pay system. IRS Form 4070 (Employee’s Report on Tips), or any similar local form, may be used for reporting purposes. A service charge is defined as a mandatory charge added to the patron’s bill. The service charge is not a tip and is considered to be income to the NAFI. Service charges added to patrons’ bills are usually disbursed to employees; however, the disposition of this money is a management prerogative, subject, of course, to local labor management agreements. Any portion of the service charge that is disbursed to the employee constitutes wages and is subject to both employee and employer FICA taxes as well as Federal/State income tax withholding. Service charges paid to employees are not to be included in the report of tips since they are deemed to constitute wages.

*d.* For the tip allocation and reporting requirements of Public Law 97-248, see AR 215-1, paragraph 3-9 and appendix C.

### **3-30. Other pay provisions**

*a.* Pay for the date of entrance on duty will cover the time that is under the control of the employer after the employee has been selected for employment. The employee is not entitled to pay for any period exclusively devoted to applying for employment, pre-employment interviews, and other pre-selection processes.

*b.* Pay for date of separation will cover only the time the employee is in a duty status, which includes time spent in complying with activity clearance requirements.

*c.* Pay for date of death will be made for the entire day regardless of the hour of death, provided the employee was in a pay status (work or leave) on the workday immediately preceding the date of death.

*d.* All adjustments to pay will be effective on the first day of a pay period unless otherwise directed by HQDA.

*e.* When the effective date of two personnel actions are the same, the actions will be processed in the order giving the employee the greater benefit.

*f.* Waiver of overpayment may be authorized when administrative error has resulted in overpayment and there are no indications of fraud, misrepresentation, or lack of good faith on the part of the employee. Such waivers may be approved by the installation commander or a designated representative.

*g.* Upon death of an employee, payment of the unpaid compensation will be made to the beneficiary designated by the employee on DA Form 5521. DA Form 3434, NOA Separation Death, will be forwarded to the servicing payroll office indicating in item 25 the name, SSN and address of the beneficiary, with a copy of the DA Form 5521. No payment will be made until the information is provided to the servicing payroll office by the servicing CPAC/NAF-CPU.

*h.* NAF employees relocated to posts in foreign areas may be authorized a lump-sum advance of pay. Such advance will be made in conformance with the procedures to be used for payment to APF employees, with the exception that payment may be made only after arrival at duty station in the foreign area. If financial constraints limit the amount of advance pay that can be made, this fact must be made known by the employing CPAC/NAF-CPU to the applicant at the time of selection.

*i.* Movements between pay systems. The following applies when an employee is being moved between FWS, NF and CC systems.

(1) Pay will be set in accordance with the requirements of the gaining system.

(2) The representative rate of pay for an NF or CC position is the employee’s current rate of pay, or, when an employee is moving to an NF or CC schedule, the initial rate of pay upon assignment.

(3) If the movement is to a position with a higher representative rate of pay, the nature of action is promotion.

Movement with no change in rate of pay is a reassignment. Movement to a position with a lower representative rate of pay is a change to lower grade/level.

### **3-31. Back pay computation**

*a.* When an appropriate authority, such as a judge or installation commander, directs in writing the correction or cancellation of what that authority determines to be an unjustified or unwarranted personnel action, the pay, allowances, and differentials that the employee would have received if the personnel action had not occurred will be computed and paid by the servicing payroll office. NAFI and employee contributions to a retirement plan are not covered or included. Leave that would otherwise have accrued had the unjustified or unwarranted personnel action not occurred will be restored, or paid if circumstances do not allow for restoration.

(1) In computing the amount of back pay the following will be excluded:

*(a)* Any period during which the employee was not ready, willing and able to perform the duties of the position because of an incapacitating illness or injury.

*(b)* Any period during which the employee was unavailable for work for reasons other than those related to or caused by, the unjustified or unwarranted personnel action.

(2) In computing the amount of gross back pay award the payroll office shall—

*(a)* Grant, upon instructions from the installation, any sick or annual leave available to the employee for a period of incapacitation if the employee requests such leave and can establish that the period of incapacitation was the result of illness or injury.

*(b)* Deduct earnings by the employee from other employment during the period covered by the corrected or canceled personnel action. Such other employment will include only that employment engaged in by the employee to take the place of the employment from that which the employee was separated or suspended by the unjustified or unwarranted personnel action. Pay earned from an additional or moonlight job that the employee held prior to the unjustified or unwarranted personnel action will not be deducted.

*b.* Any annual leave that is restored to an employee that is in excess of the normal maximum leave accumulation will be credited to a separate leave account. Gross lump sum leave payment will be deducted from back pay.

*c.* Gross severance pay will be deducted from back pay and the entitlement restored in the event the employee is later involuntarily separated by management.

*d.* Retirement refunds will be deducted from back pay and returned to the retirement fund. Erroneous retirement annuity payments will also be deducted from back pay.

*e.* Medical and life insurance premiums will be deducted, and any claims the employee accrued during the period may be submitted for consideration of payment according to the plan's benefits schedule.

*f.* If deductions exceed the back pay due, the servicing payroll office will deduct 15% of pay each pay period until the debt is satisfied.

## **Section VI**

### **FWS Position Classification Appeals System**

#### **3-32. General**

*a.* All FWS employees have the right to file a position classification complaint and appeal concerning their own positions.

*b.* Complaints may be filed on the accuracy of a job description, the official title of a job, the series, grade, or pay category. After the installation commander has issued the decision on a complaint, which is the initial stage of the appeal system, the employee has the right to appeal the decision to higher authority, except for a decision on the accuracy of a job description.

#### **3-33. Exclusions**

The following matters may not be appealed:

*a.* Any matter that has been or is being appealed to OPM.

*b.* Any matter that has been or is being grieved through the procedures of chapter 8.

*c.* The accuracy of job descriptions.

*d.* Classification standards and officially approved wage and salary schedules issued by the OPM, DoD, or DA.

#### **3-34. Notice of appeal rights**

When a job classification decision will lead to a loss in grade or pay, the activity will notify the affected employee of the decision promptly and in writing. The notice will inform the employee of appeal rights within DA and OPM, as applicable. The notice will also inform the employee that, to receive the benefit of a retroactive adjustment should the decision be favorable, the complaint must be filed not later than 15 calendar days following the effective date of the action.

### **3-35. Representation**

a. The employee has the right to be assisted by a representative, other than a member of his/her servicing CPAC/NAF-CPU or other individual with a conflict of interest, in preparing and presenting the classification complaint, which is the initial stage of the appeal system. Employees and their representatives will be afforded a reasonable amount of official time to prepare and present a complaint/appeal.

b. If a site audit is necessary to resolve a complaint, the employee may have a representative present at the site audit, subject to the following:

- (1) A formal written complaint must have been filed.
- (2) The content of the official job description of record must have been placed in controversy by allegation of specified inaccuracies.
- (3) The employee must specifically request the presence of a representative.

c. The presence of an employee representative in no way abridges, reduces, or affects the authority and responsibility of management to prescribe prospectively the duties and responsibilities assigned to each position and to make the evaluation determination required.

### **3-36. Complaint procedures**

a. An employee may initiate a classification complaint at any time, provided it relates to the official position currently occupied. The employee may be assisted by a representative in accordance with paragraph 8-5. An employee who suffers a loss in grade or salary because of a classification decision may file the written complaint only after receiving the final notice of adverse action and not later than 15 calendar days after the effective date of the action. A longer time may be permitted when it can be shown that circumstances beyond the employee's control precluded submission within the 15-day period.

b. An employee should present the complaint, orally or in writing, to the first line supervisor. The supervisor will discuss the matter with the employee and will explain the basis upon which the job has been evaluated. The supervisor should request the assistance of the servicing CPAC/NAF-CPU in furnishing this explanation. If the employee is satisfied, no further action need be taken. If the employee is not satisfied with the explanation received, a complaint in writing must be addressed to the installation commander.

c. Upon receipt of a written complaint, a member of the CPAC/NAF-CPU staff will discuss the matter with the employee and supervisor. The employee will be given a full opportunity to explain the reasons for the complaint. The accuracy of the position description, pay category, title, series, and grade will be reconsidered with attention to the representations of the employee, position classification standards, and other regulatory requirements. Based upon this reconsideration, the commander will promptly issue a decision in writing. The decision will inform the employee of any appeal rights. The time to answer a complaint will normally not exceed 45 calendar days from the date of filing. Where practicable, a CPAC/NAF-CPU representative will explain the basis for the decision to the employee's supervisor and to the employee. If the decision on the complaint requires a change in the pay category, in the content of the description, or in the title, series, or grade, action to effect the decision will be taken immediately.

### **3-37. Appeal procedures**

a. After receiving a written complaint decision, if the employee is not satisfied with that decision, a classification appeal may be filed. The appeal must be filed within 15 calendar days after receipt of the decision on the complaint.

b. The appeal must be in writing and must contain the information shown in figure 3-1. The employee may request information and advice on pertinent regulations and procedures from the servicing CPAC/NAF-CPU and will be permitted to examine such position classification standards and records as are pertinent to the case.

c. The servicing CPAC/NAF-CPU will attach the following to the appeal:

- (1) A copy of the current official job description, with a statement from the supervisor that it represents a complete and accurate description of the major duties and responsibilities.
- (2) Functional and organizational information (for employee, charts and functional statements) necessary to present all facts material to the adjudication of the appeal and, in the case of supervisory positions, the job descriptions of subordinate positions which support the assigned grade.
- (3) A current evaluation statement, giving an analysis of the case and the reasons for the current evaluation, including citation of appropriate classification standards used in determining title, pay category, series, and grade of the job.

- (4) A statement describing the steps taken by the activity to resolve the complaint before the appeal was filed.

d. The employee or his/her representative will be given the opportunity to review the material prepared and will be permitted reasonable time to append to the appeal any additional comments desired. The appeal will then be forwarded to the appellate authority.

e. The appellate authority is the next higher command having job evaluation capability above the command where the appeal originated. That authority will issue the final decision for the DA, through channels, to the employee. The decision will be based only upon a review of the record. No personal presentation is authorized.

f. Every effort will be made to issue a decision within 60 calendar days from the date the appeal was filed. When a

decision has not been issued by the appellate authority within 60 days, the appellant may request that the next higher headquarters assume jurisdiction over the appeal. The headquarters that assumes such jurisdiction will promptly consider the appeal and issue the decision. (If there is no command level with a job evaluation capability between the appellate command and Headquarters, Department of the Army, the appellate command will forward the appeal file to HQDA (DAPE-CP-NAF).

g. The notice of decision on the appeal will inform the employee of the right of further appeal to OPM. (See OPM Operating Manual, FWS- NAF, for additional information on appeals to OPM.) A copy of the notice of decision will be forwarded to HQDA (DAPE-CP-NAF).

### **3-38. Appeals to the Office of Personnel Management**

a. Employees may appeal to OPM only after they have received the final decision from DA. The appeal must be filed within 15 calendar days of the date of receipt of the DA decision.

b. When the appeal decision by OPM reverses a previous evaluation or appeal decision made by DA, the employing activity will immediately forward a copy of the OPM decision, with the job description and necessary evaluation information, directly to HQDA (DAPE-CP-NAF). This headquarters will decide whether to request OPM to reopen and reconsider the decision and will notify the employing activity of the determination reached. In any event, the employing activity will take the directed action by the date specified unless the decision is reversed or a time extension is granted by OPM.

### **3-39. Special Procedures for Demotions Based on Position Classification**

a. The provisions of this paragraph apply when it is necessary to effect a demotion due to an error in classifying the position or a change in applicable position classification criteria.

b. Every effort should be made to reassign the employee affected by the adverse position decision to another position that is equivalent in pay and grade to the position currently occupied.

c. If downgrading is to be effected, the following will be included in the notice—

- (1) State specifically and in detail why the position is to be downgraded.
- (2) Explain why the previous classification was erroneous, if such was the case.
- (3) Explain how the application of a new or revised classification criteria resulted in classifying the position at a lower grade, when such is the case.
- (4) State what efforts the employing NAFI has made to reassign the employee and why its efforts failed.
- (5) Inform the employee that a review may be made of the list of positions that were considered and the qualification requirements for these positions.

d. The notice will inform the employee of the right to appeal the following:

- (1) The classification of the position at a lower grade.
- (2) The assignment to the position at the lower grade as opposed to reassignment to another position.
- (3) Pay entitlements authorized by law and regulation.

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SUBJECT: Position Classification Appeal (Appellant's name)

THRU: (Commander of installation where appellant is employed)

TO: (Major Commander or appellate authority)

1. Reference: AR 215-3, chapter 3.

2. I hereby appeal the classification of the position to which I am now officially assigned. The following is furnished as required by reference:

a. Name of appellant:

b. Organizational location:

c. Current job number and classification:

d. Written position classification complaint was filed on:

e. Commander's reply was received by the undersigned on:

f. Job classification request:

3. Reasons supporting this request are as follows:

(Typed name and signature of appellant)

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Figure 3-1. Format for FWS classification appeal

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## **Section VII**

### **Tip-Offset Procedures**

#### **3-40. Applicability**

*a.* The policies and procedures stated in the following paragraph apply to employees in non-foreign areas who occupy the position of waiter or hat check attendant.

*b.* NAFIs may elect whether to participate in the tip-offset procedure or not. This decision is wholly dependent upon the local employment situation. If it is decided to participate in the tip-offset plan and there is a labor organization that has exclusive recognition, implementation must be negotiated with the labor organization.

#### **3-41. Tip-offset**

*a.* An employee engaged in a position of waiter or hat check attendant who customarily and regularly receives more than \$30 a month in tips is deemed to be a "tipped employee." The FLSA authorizes tips to be used to constitute a portion of the wages paid to a tipped employee. (This means that an employee's scheduled rate of pay may be reduced (or offset) by such tips in determining the amount the employer must pay the employee.)

*b.* The tip-offset may not exceed 50% of the current FLSA minimum hourly rate, or state or local rate, whichever minimum rate is lower. This means that for purposes of computing the tip offset the employee must be accorded the benefit of applying whatever minimum rate (Federal, state, or municipal) will provide the greater overall monetary benefit to the employee. Certain States have laws that restrict the tip offset or prohibit the offset entirely, in which case those laws must be followed.

*c.* The burden of proof is on the employer in proving the amount of tips received by the employees and the amount of tip offset, if any, which they are entitled to claim. It is, therefore, apparent that the amount of tip offset may vary not only from one activity to another, but within the same activity at varying locations, occasions, and time of day. The actual amounts of tips received, and thus the amount of tip offset, depends upon many variable factors. The critical point is that tip offset must be analyzed on an actual time/location basis and cannot be generalized. The Wages and Hours Division of the Department of Labor and OPM exercise authority in this matter, and individual activities are subject to payment of double damages when the amount of tip offset cannot be verified.

*d.* The amount of the tip offset must be documented on DA Form 3434 in item 16 in a manner that clearly delineates the scheduled rate of pay and the offset. This documentation must be revised each time the tip offset is changed.

*e.* The amount of tip offset remains unchanged for periods of premium pay entitlement. During periods of paid leave or holiday absence when the employee does not receive tips, no tip-offset can be taken.

*f.* The employee must report to the employer the amount they actually received in tips including the amount withheld as tip credit offset.

*g.* In the case where an employee can show to the satisfaction of management that the actual amount of tips received was less than the tip-offset, the wages paid to the employee will be increased accordingly.

*h.* If the employee is moved to a position in which tip-offset is not authorized, or if tip-offset is discontinued, DA Form 3434, item 25 should state, "Tip offset no longer authorized."

## **Section VIII**

### **Special Compensation Authorities**

#### **3-42. General**

Recruiting and relocation bonuses, and retention allowance, are authorized for RFT employees as tools to assist managers in building and maintaining a quality workforce. These bonuses and allowance are designed to offset unique problems where there is competition for employees with specialized skills in highly compensated private sector labor markets. They are not a substitute for Incentive Awards, pay adjustments, or foreign and non-foreign area allowances. Payment of these bonuses and allowances should be considered to resolve a specific recruiting or retention problem and not as a matter of routine. When a recruitment or relocation bonus is paid, a written service agreement must be completed by the employee covering a period of at least 6 months. Recruiting and relocation bonuses and retention allowances are not considered part of the basic pay of the employee for any purpose, including calculation of retirement annuity.

#### **3-43. Recruiting bonus**

*a.* A recruiting bonus is a one-time lump-sum payment of up to 25 percent of annual basic pay. The recruiting bonus may only be offered to individuals newly hired to fill RFT positions. The positions must be hard to fill and critical to the organization's mission. For purposes of eligibility, a newly hired employee is defined as an individual being hired to a NAF position for the first time, or one who is being reinstated or reemployed after a break in service of at least one year. An employee whose APF position is converted to NAF is ineligible for a recruiting bonus.

*b.* The level of approval will be established by the installation commander. Approvals require a written certification

by the selecting official that without a recruiting bonus the organization would have great difficulty filling the position with a highly qualified candidate.

### **3–44. Relocation bonus**

- a.* A relocation bonus is a one-time lump sum payment of up to 25 percent of annual basic pay.
- b.* A relocation bonus may be offered to a current NAF employee to accept a RFT position in a different area requiring a PCS move. The relocation must be without a break in service. The bonus is intended for hard to fill positions that are critical to the organization's mission and also to induce employees to relocate to remote or high-cost areas. The relocation bonus is additional to payments authorized for PCS movement.
- c.* The level of approval will be established by the installation commander. Approvals require a written certification by the selecting official that without a relocation bonus the organization would have great difficulty in getting highly qualified candidates to relocate to the area.

### **3–45. Retention allowance**

- a.* A retention allowance of up to 25 percent of basic pay may be authorized to RFT employees in a position without time limitation. Retention allowances are paid in the same manner and at the same time as basic pay, although they are not considered part of basic pay. The retention allowance may be paid out over no more than twenty-six pay periods following the effective date of its approval.
- b.* Each retention allowance will be based on the determination that the unusually high or unique qualifications of the employee or a special need of the activity for the employee's services, make it essential to retain the employee and that in the absence of such an allowance the employee would be likely to leave the installation workforce.
- c.* The level of approval will be established by the installation commander. Approvals require a written certification by the requesting official to include a written description of the extent to which the employee's departure would affect the mission of the activity.
- d.* An annual review 45 days prior to the anniversary date will be made to recertify the need to continue payment of the retention allowance. The amount of the allowance may be reduced or terminated when it is determined that—
  - (1) A lesser amount, or no allowance at all, would be sufficient to retain the employee.
  - (2) Labor market conditions have changed and recruitment of employees with needed qualifications would be possible.
  - (3) The need for the service of the employee has lessened, or
  - (4) Budgetary considerations preclude payment.
- e.* When a determination is made to reduce or terminate the retention allowance, the employee will be given a 30-day advance notice. This action is not grievable.

## **Chapter 4 Hours of Duty**

### **Section I General**

#### **4–1. Authority**

Managers of activities employing NAF personnel are authorized to establish and change the tours of duty of such employees in accordance with this regulation.

#### **4–2. Establishment of workweeks**

- a.* Installation commanders will establish the administrative workweek of 7 consecutive calendar days. (For all activities paid through the NAF centralized pay system, the administrative workweek is from 0001 Thursday through 2400 Wednesday).
- b.* Activity heads will establish a basic workweek for each regularly scheduled employee. This will not be less than a 40-hour tour for each RFT employee, and not more than 39 hours or less than 20 hours for each RPT employee, exclusive of meal times. Workdays will normally be limited to 8 hours and should never exceed 10 hours except for unusual circumstances beyond the control of management.
- c.* The basic workweek will ordinarily be scheduled over a period of 5 consecutive days; it will not include more than 6 days. The basic workweek will include the minimum number of hours the employee is expected to work each week.
- d.* Commanders are authorized to establish alternative work schedules.



#### **4-3. Establishment of tours of duty**

*a.* When possible, tours of duty for all employees will be established for the same days of each week and for the same hours each day. To the extent possible, they will be established on consecutive days of the administrative workweek.

*b.* If a regular tour of duty will seriously handicap the performance of a function or would result in substantially increased costs, rotating or irregular tours may be established. When a rotating or irregular tour of duty is established, employees will be given equitable treatment in regard to assignments involving Saturday, Sunday, and night duty. The necessity for a rotating or irregular tour of duty should be explained to incumbents of, and to applicants for, positions involving such tours.

*c.* Tours of duty for RFT and RPT employees will be scheduled and posted two weeks in advance and will cover a period of at least one administrative workweek. Activity managers may make exception to this requirement when unusual circumstances make advance scheduling impossible.

*d.* Tours of duty will not be changed or adjusted solely to avoid the obligation of granting leave or premium pay for a holiday.

*e.* If it is necessary to have an off-duty period between two portions of a daily tour of duty, the employee will be completely free during such an off-duty period.

*f.* Insofar as practicable, the daily tour of duty should be established in terms of full hours. When fractional hours are required, the daily tour will be expressed in full-hour and quarter-hour multiples.

*g.* When the daily tour of duty begins on one calendar day and extends into the next, the day that the tour begins will identify the tour for that day; for example, a tour of duty beginning 2000 Friday and ending 0430 Saturday is identified as the Friday tour of duty. This is applicable also to holiday pay determinations.

*h.* If a basic workweek of more than 20 hours is established for a RPT employee, the number of hours will be indicated in item 25 of DA Form 3434. If a specific number of hours is not indicated, the basic work week will be presumed to be 20 hours.

*i.* When a seasonal tour of duty is established, item 25 of DA Form 3434 will indicate the periods in a non-duty status (see para 2-13n.)

*j.* For RPT and regularly scheduled FLX employees the basic workweek requirement may be satisfied on a pay period basis when lack of work prevents meeting the weekly minimum.

*k.* Regularly scheduled FLX employees paid on the FWS or the CC pay system must have a guaranteed number of hours per week included in item 25 of DA Form 3434.

#### **4-4. Special considerations in establishing work schedules**

The following requirements will be observed in establishing tours and location of duty:

*a.* Tours of duty for minors

(1) Tours of duty for minors will be established in compliance with applicable Federal, State, and local laws but will be limited to 8 hours each day and 48 hours each week.

(2) Employment of students will not exceed 5 work-hours on school days or 8 work-hours on non-school days and days preceding non-school days. A student may not be employed in excess of 28 work-hours in any 1 workweek during school terms.

(3) If transportation facilities require unusually long periods (in excess of 1 hour) in traveling to and from work, the daily tour for students will be reduced accordingly.

*b.* Reduction in hours of work

(1) RPT employees will be given a minimum 7 calendar days advance notice.

(2) FLX employees will be given a minimum 24 hours advance notice.

*c.* Requirements for designating employees for emergency duty. When it may become necessary to call employees back to duty in emergencies, commanders may designate employees to be available for such a call back during off-duty time under the following conditions:

(1) If more than one employee possesses the required skills, designations will be made on an equal rotating basis.

(2) The requirement that they make themselves available for emergency duty ordinarily will not extend beyond the requirement that they leave word at their homes of a telephone number where they may be reached.

(3) The designation of employees to be available for call back is not a basis for additional compensation. Additional compensation will be paid if the employee is required to remain at the duty post, with time and activity under the control of the employer. If the employee is called back to duty, however, a minimum of 2 hours pay will be authorized.

*d.* Minimum tour of duty. No employee will be scheduled for, or called to, duty for a period of less than 2 hours.

*e.* Management may authorize an employee to telecommute when no additional costs would be incurred, and it is in the best interest of the activity. Requirements for telecommuting are as follows:

(1) The telecommuting worksite is typically the employee's home or a telecenter.

(2) Telecommuting will not adversely affect the performance of the employee or others in the work group.

(3) Time and attendance records must be properly certified by the supervisor.

(4) A safe and adequate telecommuting worksite is required. The employee must be free from interruptions, and the necessary level of security and protection must be provided for Government property. The employee must allow management to inspect the alternative workplace during normal working hours to ensure proper maintenance of Government-owned property and conformance with safety standards.

(5) Duty time for telecommuting employees will be used to perform official duties only.

(6) The supervisor may cancel the arrangement and instruct the employee to resume or begin working at the activity's office or site at any time.

#### **4-5. Daylight-saving time**

a. Adopting daylight-saving time. Employees working shifts when the change to daylight-saving time occurs are considered on duty for the normal number of hours of that shift, provided the hour lost is charged to annual leave (or sick leave if appropriate). If no charge is made to leave, pay may be allowed only for the number of hours worked.

b. Return to standard time. When the change from daylight-saving time to standard time occurs, the employee working shifts during the change will be credited, and pay allowed, for the actual number of hours worked.

#### **4-6. Rest periods**

Short rest periods during the daily tour of duty will be permitted when, at the discretion of the activity manager, such periods are beneficial or necessary to the activity. The policy adopted by each manager will be established in writing and made known to all employees.

a. Criteria for establishing rest periods are as follows:

(1) Protection of the employee's health by relief from hazardous work.

(2) Relief of fatigue caused by continuous physical exertion or work performed in confined spaces which limits personal activities.

(3) Increased efficiency or production would result.

b. Rest periods may be granted subject to the following conditions:

(1) The rest period may not exceed 15 minutes during each 4 hours of continuous work.

(2) The rest period will not be a continuation of the lunch period.

#### **4-7. Meal periods**

a. Meal periods during which the employee is entirely free of duty in connection with job requirements may not be considered duty time and the employee may not be compensated for the meal period. Meal periods will be indicated on the work schedule and will be no less than 30 minutes nor more than 1 hour. No employee will be required to work more than 6 hours in any workday without a meal period.

b. When the nature of the duties requires that an employee remain at the duty station, an on-the-job meal period may be established. The employee will be paid for an on-the-job meal period not in excess of 20 minutes.

#### **4-8. Incidental duties**

Time spent in the performance of assigned incidental duties directly connected with the performance of a given job is included in the daily schedule of working hours. This includes time spent in travel which is an inherent part of and vital to the work itself. However, travel from home or lodging to and from place of work is not considered work time. For example, time required by maintenance workers to secure working implements in the morning and, if necessary, change to protective clothing and to return the implements and change back to ordinary clothing at the end of the workday is included in the tour of duty. Similarly, time required to validate funds for which the employee is responsible, both prior to and subsequent to the work period, is considered to be part of the tour of duty. The time permitted for such duties should be established in writing by the activity head and made known to all affected employees.

## **Section II**

### **Holidays**

#### **4-9. Legal holidays**

a. First day of January

b. Third Monday of January.

c. Third Monday of February.

d. Last Monday of May.

e. Fourth day of July.

f. First Monday of September.

g. Second Monday of October.

h. Eleventh day of November.

- i. Fourth Thursday of November.
- j. Twenty-fifth day of December.
- k. Any other day designated as a holiday by Federal statute or Executive order.

#### **4-10. Authority**

Commanders have the authority to include a holiday within an employee's basic workweek and to require them to work on that day or on the day within the basic workweek which becomes their holiday. If an employee entitled to holiday pay is required to work on a legal holiday or on the day that becomes their holiday, they are entitled to premium pay. When an employee is scheduled to work on a holiday and requests and is granted time off for personal reasons, the time will be charged to annual leave (AL) or sick leave (SL) as appropriate. Similarly, an unexcused absence will be charged as AWOL. No payment of holiday pay is made in either of these situations.

#### **4-11. Determining holidays**

a. For purposes of pay and leave, the day to be treated as the holiday for all RFT and also RPT employees with a basic workweek of 5 or 6 days will be determined as follows:

- (1) When a legal holiday falls on a workday in the employee's workweek, that workday is a holiday.
- (2) When a legal holiday falls on a day outside his or her basic workweek, the day to be treated as the holiday will be the day of the basic workweek that immediately precedes or immediately follows the observance of the legal holiday. This day will be determined by the head of the employing NAFI. To allow for continuity of operations, managers may designate alternative days as the holiday for individual employees when strict application of the "day preceding or day succeeding" rule would result in disruption to the NAFI.

b. A part-time employee with a basic workweek of less than 5 days has no entitlement to holiday leave or premium pay when a holiday falls outside the basic workweek.

c. When an employee who is eligible for holiday leave has a workday or tour of duty on a holiday (or the day that becomes his or her holiday) covering portions of 2 calendar days, holiday leave will be granted for the workday that commences on the holiday (or the day that becomes the employee's holiday). If required to work on that day, holiday pay will be paid. If the regularly scheduled hours include a workday which begins on the day before the holiday and extends into the holiday, the employee will be required to be on duty for that workday unless annual leave for that workday is approved.

d. Employees will be informed 2-weeks in advance of the date a holiday is to be observed.

## **Chapter 5 Leave**

### **Section I Family Leave Policies**

#### **5-1. Family leave**

This Section provides policy on the availability of sick leave and other leave for purposes related to certain family members and to serious health conditions of the employee. Additional provisions regarding the use of sick leave by employees for purposes directly related to their own illness are contained in this Chapter.

#### **5-2. Family and Medical Leave Act (FMLA) of 1993**

a. Pursuant to FMLA, all regular employees and regularly scheduled FLX employees in a continuing position who have completed 12 months of service as defined in 5 U.S. Code 6301(2) are entitled to up to a total of 12 administrative workweeks (in direct proportion to the number of hours in the employee's regularly scheduled administrative workweek) of leave without pay (LWOP) during any 12 month period for one or more of the following reasons:

- (1) Birth of a child and the care of that child (within 12 months of the birth).
- (2) Placement of a child with the employee for adoption or foster care (within 12 months of the placement).
- (3) To care for a spouse, child or parent if such spouse, child or parent has a serious health condition (as defined at 5 C.F.R. 630.1202).
- (4) A serious health condition (as defined at 5 C.F.R. 630.1202) that makes the employee unable to perform the essential functions of the position.

b. Regular employees may elect to substitute accrued or accumulated AL or SL for any part of the 12-week FMLA period. However, SL may only be substituted where the use of SL is otherwise permitted by law or this regulation.

c. All eligible employees will be entitled to return to duty upon completion of the FMLA period. Management may require fitness for duty certification if the leave was due to the health of the employee.

d. The employee shall provide a 30 day written notice, when possible, prior to the start date of the FMLA leave. A

request for leave based upon medical conditions must be supported by certification issued by the health care provider of the employee, spouse, child, or parent of the employee, as appropriate.

e. Management may authorize additional administrative leave to eligible employees in accordance with other sections of this chapter.

### **5-3. Sick leave for general family care or bereavement purposes**

a. Employees may use sick leave to care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental or optical examination or treatment.

b. Use of sick leave is authorized to make arrangements necessitated by the death of a family member or to attend the funeral of a family member.

c. Sick leave may be used for the purposes described in subparagraphs a and b above during any leave year, in an amount not to exceed a total of 40 hours for full-time employees. A part time employee, may use up to the average number of hours in his/her scheduled tour of duty per week. Full-time employees may use up to an additional 64 hours if the use of that leave does not cause the amount of sick leave to the employee's credit to fall below 80 hours. The basic limit for a part-time employee is prorated and shall be applied in accordance with 5 CFR 630.401. No sick leave may be advanced for the purpose of meeting the requirement to retain a minimum sick leave balance or for making additional sick leave available for these purposes. The minimum sick leave balance requirements must be met after the sick leave is used.

d. The definition of "family member" includes: (a) spouse and parents thereof; (b) children, including adopted children, and spouses thereof; (c) parents; (d) brothers and sisters, and spouses thereof; and (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

### **5-4. Expanded sick leave to care for a family member with a serious health condition**

a. The use of sick leave under para 5-3 may be extended to a total of up to 12 weeks of sick leave each year to care for a family member with a serious health condition. "Serious health condition" has the same meaning as found in OPM's regulations at 5 CFR 630.1202 for administering the FMLA.

b. Under these expanded rules, during any 12 month period a full-time regular employee who maintains a sick leave balance of 80 hours may use up to a total of 480 hours of sick leave each year to care for a family member with a serious health condition. A part-time employee may use up to 12 times the average number of hours in his or her weekly scheduled tour of duty provided the employee maintains a sick leave balance equal to twice the average number of hours in the employee's scheduled tour of duty each week

c. If an employee previously used any portion of the sick leave for general family care or bereavement purposes under para 5-3, that amount must be subtracted from the 12-week entitlement (or proportional entitlement for part-time employees) to sick leave available under this paragraph.

d. A medical certificate will be required to support leave taken under these expanded rules.

### **5-5. Organ donor leave**

This regulation administratively adopts the provisions of the Organ Donor Leave Act:

a. A RFT employee may, in any calendar year, use:

- (1) Up to 56 hours of paid administrative leave under this section to serve as a bone-marrow donor; and
- (2) Up to 240 hours of paid administrative leave to serve as an organ donor.

b. An RPT or regularly scheduled FLX employee may use a pro-rated amount of administrative leave for these purposes, directly proportional to the number of hours in his/her administrative workweek.

c. A request for leave due to organ donation or bone-marrow donation must be supported by certification issued by the health care provider of the employee.

## **Section II**

### **Annual leave**

#### **5-6. Introduction**

Annual leave (AL) is a significant and important benefit for regular employees at all levels. Specific attention must be given to the long-standing employee-management mutual responsibility to plan and schedule the use of AL throughout the year. Managers at all levels must continually review internal practices and develop necessary procedures to assure the effective scheduling of AL by and for all regular employees.

#### **5-7. Creditable service for annual leave accrual**

a. *Civilian service.*

(1) All prior service with a DoD NAFI as a regular employee is creditable for determining the annual leave accrual rate. Service performed by ODM personnel in a RPT position is creditable after 1 May 1975. FLX service with an Army NAFI is creditable for a maximum of 6 months when the Army NAFI FLX appointment has been converted to a

regular appointment with no break in service. Only continuous FLX service in the position, with no change to grade/level or duties from the position from which converted, will be credited. Credit is not given for service in an emergency hire FLX appointment.

(2) Prior service as an APF employee is creditable only if the employee has moved from a DoD APF position to a NAF position without a break in service of more than 3 days, on or after 1 January 1987.

*b. Military service.*

(1) All active uniformed service terminated by honorable discharge under honorable conditions, or by transfer to inactive reserves under honorable conditions, is creditable.

(2) For an employee who is a retired member of the uniformed services, credit is restricted to the actual service during wartime or in any campaign or expedition for which a campaign badge has been authorized. (Refer to OPM Operating Manual, Processing Personnel Actions, for table of campaigns and expeditions.) However, all active service of a retired member is creditable in certain circumstances if the retirement was:

(a) Based on disability resulting from injury or disease received in the line of duty as a direct result of armed conflict;

(b) Based on disability caused by an instrumentality of war and incurred in the line of duty during a period of war.

(3) The provisions of (2)(a) and (2)(b) above became effective 16 February 1983. No recomputation of leave for employment periods prior to that effective date is authorized.

(4) It is the employee's responsibility to provide documentation to substantiate creditable service. No credit will be given until service has been verified.

*c. Workers' compensation.* If a regular employee eligible to accrue leave is receiving benefits under the Longshore and Harbor Workers' Compensation Act (LHWCA), credit is given for the period the employee is carried on the rolls of the employing NAFI in a LWOP status while receiving such benefits, up to a maximum of one year.

*d. Reinstatement.* When an employee is reinstated from one Army NAFI regular position to another Army NAFI regular position, the period between positions will be considered creditable service for leave accrual purposes, up to a maximum of 6 months.

*e. Prior leave categories.* Notwithstanding the provisions of a and b above, RFT and RPT employees that were placed in a leave accrual category as a result of more liberal provisions of the separate DoD Components prior to 6 September 1974 will not be placed in a lower category.

## **5-8. Accrual of annual leave**

*a. Rates of accrual.* Annual Leave will accrue for all hours in a pay status up to a maximum of 40 hours per week, at the following rates:

(1) Regular employees with less than 3 years of creditable service— 5 percent.

(2) Regular employees with 3 years but less than 15 years of creditable service— 7 1/2 percent, except for the final biweekly period of the leave year, it will accrue at the rate of 12 1/2 percent of the total non-overtime hours.

(3) Regular employees with more than 15 years of creditable service— 10 percent.

*b. Time of crediting.* Accrued leave is credited to the employee's individual leave record at the beginning of the pay period in which it is earned.

*c. Changes in rates of accrual.*

(1) Changes in the rates of accrual are effective at the beginning of the first pay period following the completion of the prescribed service.

(2) When a change from a 7 1/2 percent to a 10 percent leave category occurs at the beginning of the last full biweekly pay period in the leave year, the employee's leave credit for that period will be computed at 12 1/2 percent.

*d. Minimum accrual.* The minimum accrual that may be credited is a quarter of an hour per pay period. Accruals of less than one quarter hour will be rounded up to one quarter hour if greater than .124 hours.

*e. Accrual during absences.* Annual Leave continues to accrue to the employee's credit while in a pay status.

*f. Restoration after grievance.* When a regular employee is restored to a position as a result of a grievance, the servicing CPAC/NAF-CPU will reestablish the leave account (as either a credit or a charge) as it was at time of separation, plus any accrual that would have been earned had the employee not been separated.

## **5-9. Accumulation of annual leave**

*a.* The annual leave accruing to an eligible employee's credit which is not used during the leave year may be accumulated from year to year. Use or forfeiture of accrued leave in excess of the maximum allowable accumulation is required.

*b.* Maximum accumulation is as follows:

(1) *The 30-day limitation.* A maximum accumulation of 30 days (240 hours) is prescribed for all eligible employees except as indicated in (2) below.

(2) *The 45-day limitation.* A maximum accumulation of 45 days (360 hours) is prescribed for eligible employees serving in foreign areas under the same conditions prescribed for Title 5 employees.

c. Accumulation in excess of the limitations in b above is authorized when any of the following conditions exist:

- (1) Administrative error, including correction of an unwarranted or unjustified personnel action, when the error caused the loss of annual leave otherwise accruable.

- (2) Sickness of the employee, providing that the period of absence due to sickness occurred at such a time late in the leave year, or was of such duration, that the annual leave could not be rescheduled for use before the end of the leave year.

- (3) Employees in a leave transfer program during the extent of the medical emergency.

- (4) Leave is recredited upon receipt of workers compensation benefit payments in accordance with paragraph 5-23.

- (5) Operation exigencies, providing leave was approved and scheduled in advance. Authority is granted to installation commanders to approve exigencies. This authority may be delegated to the next lower organizational level. The commander or authorized representative should be guided by the following in reaching the decision as to whether an exigency exists:

- (a) The exigency is of such importance that the employee cannot be excused from duty.

- (b) There is no reasonable alternative to the cancellation of the scheduled leave or the assignment of those employees who will forfeit annual leave because of the work requirement generated by the exigency.

d. Annual Leave restored or accumulated under "c" above will be credited to a separate leave account and must be scheduled and used no later than the end of the leave year ending 2 years after—

- (1) The date of the restoration of the annual leave forfeited because of administrative error or unwarranted or unjustified personnel action; or

- (2) The date fixed by the installation commander, or designated representative, as the termination date of the exigency; or

- (3) The date the employee is determined to be recovered and able to return to duty if leave was forfeited because of sickness. If the employee is separated before the specified time limit, lump-sum payment is authorized for the unused leave.

e. The special provisions outlined in c and d above recognize and reemphasize management's responsibility for the planning and effective scheduling of annual leave for use throughout the leave year as discussed in paragraph 5-12. Before annual leave subject to forfeiture may be considered for restoration (other than for administrative error), it must have been scheduled and approved in writing before the start of the third pay period prior to the end of the leave year.

f. Employees permanently assigned to an installation designated for closure have the right to accumulate annual leave without regard to existing "use or lose" limitations. This provision does not apply to employees assigned to organizations or functions located at the installation that are designated to continue after closure at the same location.

- (1) Employees assigned to a covered installation are relieved from the requirement to schedule leave in advance to be eligible for the restoration of forfeited leave. Leave in excess of the maximum is treated as if it was restored and shall be placed in a separate base realignment and closure (BRAC) leave account; employees shall not be required to use this restored leave before other available annual leave.

- (2) All annual leave will be paid in lump-sum, or transferred in accordance with paragraph 5-10, when an employee moves to another DoD NAFI eligible position. The standard leave restoration rules apply to the use or lose leave earned during the year in which the transfer occurs.

## **5-10. Payment and transfer of annual leave**

a. Except as provided below, a lump-sum payment for accumulated annual leave will be made to an eligible employee who is—

- (1) Separated.

- (2) Transferred to a NAFI at another installation.

- (3) Converted from a RFT or RPT appointment to a FLX appointment.

b. Annual leave accrued and unused during the current leave year will also be included in the lump-sum payment. Payment will include restored leave granted in accordance with paragraph 5-9c if within the time limits prescribed. Employees who separate are entitled to a lump-sum payment of all AL; including restored, BRAC, accumulated or accrued and unused during the current leave year.

c. When an employee transfers from one DoD NAFI to another, he or she may request that the leave credit be transferred in lieu of lump-sum payment. If the gaining activity agrees, funds will be transferred by the losing activity to cover the value of the leave based upon the employee's rate of pay immediately prior to transfer. If the employee is transferring to a position at a lower rate of pay, the funds transferred will be at the lower rate of pay. Agreement between the gaining activity and the employee on a partial transfer/lump-sum payment is authorized.

d. An entry will be made in item 25 of the DA Form 3434 indicating that leave is to be transferred or paid followed by the parenthetical statement "(subject to verification of leave record)."

e. Lump sum payment is not authorized when an employee moves to a DoD APF position without a break in service greater than 3 days. Leave credit will be transferred with no transfer of funds. DA Form 3434 will reflect the fact that leave is to be transferred.

f. When an employee moves from a DoD APF position to a NAF position without a break in service greater than 3 days and the NAF position is an appointment category without annual leave eligibility, no annual leave will transfer.

g. Verification of annual leave credit will be accomplished by SF Form 1150 (Record of Leave Data), which will be retained in the OPF as supporting documentation.

#### **5-11. Delayed receipt of record of leave data**

If the employee transfers, and his or her OPF is delayed in reaching the new employing activity and leave must be taken, the new employing activity will determine the amount of leave to the employee's credit by contacting the releasing activity. If the leave balance cannot be obtained and the employee is required to take LWOP because of this situation, the period of LWOP will be adjusted to paid leave, upon receipt of the transferred leave balance. When the leave balance is not sufficient to cover the entire period of LWOP, the portion that it covers will be adjusted.

#### **5-12. Use of annual leave**

a. *General.* Each employee has a right to the use of annual leave to their credit; however, activity heads have the responsibility for determining when the leave will be used. The decision as to when and to what extent annual leave may be granted, as well as the responsibility for ensuring that annual leave can be taken, rests with the activity head or designated representatives. An employee will not be denied the use of annual leave when they may otherwise be required to forfeit accruals because of the maximum accumulation provision. Denial of the use of annual leave will be based upon factors which are reasonable, equitable, and which do not discriminate against any employee or group of employees. RPT employees, if they so elect, may be authorized to use annual leave in excess of the regularly scheduled basic workweek up to a maximum of 40 hours per week.

b. *Advance of leave.* Managers/supervisors may grant annual leave to an employee in advance of its actual earning in an amount not to exceed the amount that would accrue to the employee during a leave year. If the employee is separated prior to liquidation of advanced annual leave balance, recoupment will be made from wages due the employee.

c. *Management responsibility.* Managers and activity heads will establish and publish a local policy which will ensure that work schedules provide employees who have annual leave to their credit an opportunity to use their leave for vacations or personal business. Authority for approving leave should be delegated to the lowest practicable supervisory level within the activity.

d. *Employee responsibility.* Employees have the responsibility for cooperating with management in the use of annual leave when their services can best be spared.

e. *Request for an approval of annual leave.* Although the use of annual leave is a right granted to the employee, it is the prerogative of management to determine when leave is to be used. For this reason, the use of annual leave is subject to the prior approval of the appropriate supervisor. Retroactive approval may be given if the appropriate supervisor determines that the circumstances warrant. Failure to secure proper approval may result in the period being charged to absence without pay (AWOP). When circumstances beyond the employee's control preclude prior approval of an absence to be charged to annual leave, the employee should notify the appropriate supervisor as soon as possible or within any reasonable time fixed by appropriate authority.

f. *Annual leave in lieu of sick leave.* The substitution of annual leave for sick leave previously granted may not be made retroactively for the sole purpose of avoiding forfeitures at the end of the leave year. An employee whose absence for illness has been approved by management and whose accumulated sick leave has been exhausted may have the absence charged to annual leave or leave without pay (LWOP) unless additional sick leave is advanced in accordance with paragraph 5-17.

g. *Charging of annual leave.* The minimum charge for annual leave is a quarter of an hour. It is within administrative discretion to accumulate charges within a single day for leave charging purposes; however, absences are not cumulative from day to day for purposes of charging leave. In no case may an employee be required to work during any period for which leave is charged.

#### **5-13. Leave Transfer Program**

a. Installation commanders are authorized to establish an individual installation-wide Voluntary Leave Transfer Program. This program permits Army NAF regular employees to donate annual leave to other Army NAF regular employees for documented medical emergency situations. A medical emergency means a medical condition of an employee or a family member (to include any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship) that is likely to require an employee's absence from duty for a prolonged period of time, and will result in a substantial loss of income to the employee because of the unavailability of paid leave.

b. Installations that implement a Leave Transfer Program will establish procedures that provide a single point of approval within a NAFI or in a specific geographic location for all applications from potential leave recipients. The following is to be used as a guide:

(1) Regular employees must make written application to become a leave recipient. If employees are not capable of

making application on their own behalf, a personal representative of the potential leave recipient may make written application for the employee.

(2) Each application shall be accompanied by the following information concerning each potential leave recipient:

(a) The name, position title, and grade or pay level of the potential leave recipient.

(b) The reasons why transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency and, if it is a recurring one, the approximate frequency of the medical emergency affecting the potential leave recipient.

(c) Certification from one or more physicians, or other appropriate experts, with respect to the medical emergency, or any additional information that may be required to support the request.

(3) The approving official will notify the leave recipient in writing within 10 workdays whether or not the application has been approved. Reasons for any disapproval will also be provided to the employee in writing.

(4) Once a medical emergency has been recognized it is important to monitor the status of the emergency to ensure that the leave recipient continues to be affected by the emergency. The first-line supervisor is generally the primary link in accomplishing this evaluation.

c. Leave will be transferred under the following conditions:

(1) A regular employee may submit a voluntary written request to specify a number of hours of accrued annual leave to be transferred from their leave account to the annual leave account of an approved leave recipient.

(2) Annual leave may be transferred to an approved leave recipient employed in an Army NAF position.

(3) All leave donated will be converted to a dollar amount by multiplying the hours donated by the hourly rate of pay of each donor. The total amount is then divided by the hourly rate of pay of the recipient to determine the number of hours of donated leave to be credited.

(4) The servicing payroll office will then be informed in writing by the servicing CPAC/NAF-CPU of the hours to be taken from each donor and the hours to be credited to the leave recipient.

(5) The leave, once transferred, becomes available to the leave recipient for retroactive application for periods of LWOP, to liquidate an indebtedness for advanced sick leave or annual leave granted as a result of the medical emergency, and for usage in the same manner, and for the same purposes as if it had been accrued by the individual.

(6) If the employee's medical emergency terminates, the amount of unused leave previously credited will remain in the recipient's leave account. However, no further donation of leave will be credited beyond the termination date of the emergency.

(7) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave accrued during the leave year in which the donation is made. Additionally, an employee cannot donate more leave than the current balance available at time of donation. Use or lose annual leave in excess of the maximum above may be donated.

### **Section III**

#### **Sick Leave**

##### **5-14. Earning rates**

Regular employees earn sick leave to be credited to their account at the end of each pay period, at the rate of 5 percent of the total hours in a pay status up to a maximum of 40 hours per week. The minimum accrual is 1/4 hour in a pay period. Sick leave is earned from the first pay period of employment and may be used when earned. There is no maximum for accumulation of sick leave.

##### **5-15. Amounts to be charged**

The minimum charge for sick leave is a quarter of an hour. RPT employees will be granted sick leave only for the scheduled hours in the workweek.

##### **5-16. Use of sick leave**

Accumulated sick leave to the employee's credit is available for use in the following circumstances:

a. When the employee is incapacitated for the performance of duties because of sickness, injury, pregnancy or childbirth.

b. For medical, dental, or optical examination or treatment.

c. Exposure to a contagious disease where the health of coworkers is endangered.

d. When the employee must be absent from duty for purposes related to the adoption of a child, including appointments with adoption agencies, social workers and attorneys, court proceedings, required travel and other activities necessary to allow the adoption to proceed.

##### **5-17. Administration**

a. Activity managers will provide means to ensure the proper use of sick leave and for prescribing the kind of evidence to be furnished to support sick leave charges. Supervisors authorized to approve sick leave are responsible for



determining in individual cases that the reasons for absence warrant the granting of sick leave. Incentives for non-use of sick leave are not authorized.

b. An employee who is absent because of illness should notify his/her supervisor as early as practicable on the first day of the absence (generally within 2 hours of the start of the tour of duty) or as soon thereafter as possible. Failure to give such a notice may result in a charge to AWOL. If an employee has demonstrated a history of potential abuse by excessive requests for sick leave, a medical certificate may be required to support short absences of less than 3 days. A medical certificate will normally be required to support all absences of more than 3 days. However, when circumstances are such that requirement of a medical certificate is not reasonable, the employee's personal statement of illness may be accepted. When an employee is on sick leave for more than 2 weeks (except for pregnancy and confinement), the employee will be required to submit a doctor's certificate at least every 2 weeks during the absence unless, in the judgment of the approving authority, the circumstances do not warrant a certificate. Requests for medical, dental, or optical examinations or treatment must be made prior to treatment, unless the examinations are required by unforeseen circumstances, such as serious injuries, accidents, or sudden illness.

#### **5-18. Advance of sick leave**

Subject to the following provisions, management officials may prescribe the conditions under which sick leave may be advanced to employees under their jurisdiction.

a. All of the accumulated sick leave to the employee's credit must be exhausted, or projected to be exhausted.

b. Employees serving in their probationary period should not be advanced sick leave in excess of the amount that it is reasonably assured they will earn prior to the termination of the probationary period.

c. The amount of sick leave advanced to an employee's account may not exceed 240 hours at any time. When it is known that the employee is to be separated from the rolls or retired, the amount should not exceed an amount that can be liquidated by accruals prior to separation.

d. Application for advance sick leave must be accompanied by a medical certificate signed by a health care provider that supports the request.

e. When an employee who is indebted for advance sick leave is separated, the employee will be required to:

(1) Refund the amount paid for the period covering the advance leave, or

(2) Have that amount deducted from any pay due. An employee who enters active military service with a right of restoration is deemed not separated for the purpose of this paragraph.

f. This section does not apply when an employee—

(1) Dies.

(2) Retires for disability.

(3) Resigns or is separated because of disability which prevents the employee from returning to duty or continuing in the service, and which is the basis of the separation as determined by acceptable medical evidence.

#### **5-19. Transfer of accumulated sick leave**

a. When an employee moves from one DoD NAFI to another, all the accumulated sick leave at the time of transfer will be credited to the sick leave account by the receiving activity, provided the employee did not retire from the losing NAFI and did not receive service credit for unused sick leave in determining credited service for annuity purposes. (Proper notation will be entered in item 25 of DA Form 3434.) No transfer of funds will be made.

b. When an employee moves from a DoD APF position to a NAF position without a break in service of more than 3 days, and the NAF position is in an appointment category with sick leave eligibility, then all the accumulated sick leave will be credited to the sick leave account of the employee by the gaining NAF activity. If the NAF position is an appointment category without sick leave eligibility no sick leave will transfer. Verification of sick leave credit will be accomplished by SF 1150, and will be retained in the merged OPF as supporting documentation. This transfer procedure will apply to all movements between the two systems on or after 1 January 1987.

#### **5-20. Funding of transferred sick leave within Army NAFIs**

a. During the first 12 months after an employee transfers between NAFIs under the exclusive jurisdiction of the DA, the gaining fund will be reimbursed for any accumulated and approved sick leave the employee has used that is in excess of that which would be earned during the first year with the gaining fund, and does not exceed the amount of the accumulated sick leave. Reimbursement will be made by the successor fund (such as Army MWR Fund or Major Command MWR Fund). Example: A RFT employee who earns 13 days of sick leave a year transfers from one installation to another installation. If, during the first year of employment, the employee requests and is granted sick leave, the employer will be liable for the salary payments made for such period of the sick leave which does not exceed 13 days. However, if the employee requests and is granted sick leave in excess of 13 workdays during the first year of employment, salary payments for the excess above 13 days of sick leave used, but not to exceed the sick leave to the employee's credit, will be reimbursed by the Army MWR Fund within the US or by the appropriate overseas major command MWR Fund within overseas commands.

b. Requests for such reimbursement must be accompanied by verified statements of the amount of sick leave

transferred and the amount of leave granted. Reimbursement is not authorized for any period of absence covered by advance sick leave.

c. The provisions of this paragraph apply only to transfers between DA NAFIs. They do not apply to transfers to other DoD NAFIs that are not under the exclusive jurisdiction of the Secretary of the Army (SA).

#### **5-21. Recredit of sick leave**

a. Upon reinstatement or reemployment of a former DoD NAF employee with an effective date on or after 2 December 1994, the employee will be recredited with any sick leave balance remaining at the time of separation when reinstated or reemployed as a regular employee. Credit will not be given if sick leave was used in the computation of a retirement annuity. For effective dates prior to 2 December 1994 but not before 10 Oct 1990, SL will be recredited upon reemployment of a former DoD NAFI employee with a break in service not to exceed three years. For actions with an effective date before 10 Oct 1990, the break in service cannot exceed 180 days for recrediting of SL.

b. When a regular employee is restored to a position as a result of a grievance, the sick leave balance at the time of separation will be recredited, plus any accrual that would have been earned had the employee not been separated. (See para 3-31).

c. When an employee is converted from a regular appointment to a FLX appointment, the record of leave data furnished by the payroll office will be placed in the OPF on the right side. If the employee is subsequently returned to a regular appointment, the sick leave will be recredited to the employee's leave account.

#### **5-22. Separation**

a. Under no circumstances is lump-sum payment authorized for accumulated sick leave when the employee is separated.

b. An employee who is separated for disability will be retained in a sick leave status until all sick leave has been exhausted. When the employee is separated prior to application for, or medical approval of, disability retirement, there is no requirement to return the employee to duty to exhaust accrued sick leave.

#### **5-23. On-the-job injury**

a. When an employee is injured on the job and medical treatment is necessary, administrative leave will be granted for the initial first aid treatment on the day of injury.

b. If a regular employee loses time as the result of an on-the-job injury and wants to use accumulated sick leave or annual leave in lieu of workers compensation payments, the employee must sign a leave option agreement. If the employee signs the leave option agreement electing the use of leave, the checks received as workers compensation benefits will be endorsed by the employee to the employing NAFI. The leave balance will then be credited with the appropriate number of hours based on the amount of the payment. Upon exhaustion of leave balance, the employee will be in a LWOP status and retain the workers compensation payments. Questions on the leave option agreement should be addressed to the US Army Workers Compensation Administrator, USACFSC-RMI, 4700 King St., Alexandria, Va 22302-4414.

c. If the employee does not sign the leave option agreement, LWOP is mandatory (see also para 5-33). Upon request the employee shall be granted sick leave or annual leave from the employee's accumulated leave balances, provided the leave payments, when added to the workers compensation benefits, do not exceed the employee's basic salary.

d. If the employee elects to be placed on LWOP for the entire period of absence and if compensation is denied by the Office of Workers Compensation Programs, any sick leave or annual leave to the employee's credit may be substituted for an equivalent amount of LWOP when requested by the employee.

### **Section IV**

#### **Home Leave and Emergency Leave**

#### **5-24. Explanation of terms used for home leave and emergency leave**

a. *Home leave.* Home leave is leave earned by regular employees performing service abroad for personal use in the US, in the Commonwealth of Puerto Rico, or in one of the US territories or possessions.

b. *Month.* Month is a period of time that runs from a given day in one month through the day preceding the numerically corresponding day in the next month.

c. *Service abroad.* Service abroad is service on and after 6 September 1960 as an employee of an Army NAFI at a post of duty outside the US and outside the employee's place of residence as shown in the transportation agreement if the employee's place of residence is the Commonwealth of Puerto Rico or a possession of the US. Employees who are performing service in an official PCS status in the Commonwealth of Puerto Rico, or a possession or territory of the US, and whose place of residence is not in the same Commonwealth, possession or territory, may be eligible for Home Leave.

### **5-25. Provisions of home leave**

Home leave provides employees performing service abroad in a NAF regular position sufficient leave for vacation in the US, Puerto Rico, or one of the US territories or possessions.

### **5-26. Home leave eligibility**

The provisions of 5 C.F.R. Part 630 Subpart F are administratively extended to govern eligibility for home leave for NAF employees.

### **5-27. Computation of home leave**

Computation of home leave, earning rates, charges, and maximum accumulation of home leave for regular NAF employees will be the same as specified for APF employees. Upon transfer of an employee, no funds will be transferred for accumulated home leave; home leave will remain on the leave record until used by the employee performing future service abroad. The employing activity at the time home leave is used will be responsible for funding of leave. Lump-sum payment to the employee is not authorized for accumulated home leave.

### **5-28. Granting home leave**

*a. Basic requirement.* The basic requirement for home leave is completion of a continuous 24-month period of service abroad in any regular NAF position, in a foreign area that meets the requirements for the grant of home leave. Home leave may be combined with earned annual leave.

*b. Conditions.*

(1) The grant of home leave is at the discretion of the employing NAFI. However, since the intent of home leave is to ensure that the regular employee and his or her family remain familiar with their actual home in the US during a prolonged assignment to a foreign area home leave should not be denied except in a bona fide emergency related to the exigencies of the employing NAFI. In this event, the employing NAFI will advise the employee in writing of the reason(s) for the denial and the proposed alternative period of home leave.

(2) Home leave may be authorized for use only in the US, the Commonwealth of Puerto Rico, or a territory or possession of the US.

(3) Travel at Government expense will be authorized only if home leave is taken in conjunction with renewal agreement travel to and from the employee's actual place of residence specified in the transportation agreement. An exception to the requirement that the renewal travel be to/from the employee's place of residence is authorized when the home leave travel is to and from a US location of shorter distance and lesser travel cost than travel to the employee's actual place of residence.

(4) Home leave travel, other than in conjunction with authorized renewal agreement travel, will be at the employee's expense.

*c. Use of home leave.* Home leave may be authorized under the following circumstances:

(1) After the completion of the one-time continuous 24-month period of service abroad requirement.

(2) In conjunction with renewal agreement travel, temporary duty travel, or authorized emergency leave, provided the employee meets the requirements of c(1) above.

*d. Separation.* Under no circumstances is lump-sum payment authorized for home leave balance when the employee is separated.

### **5-29. Emergency leave**

Emergency leave may be granted to US citizen/US national, NAF regular employees assigned outside the US and entitled to return transportation in cases of emergencies such as serious injury, illness, or death in the employee's family located in the US. The period of emergency leave, including travel time, shall be charged to annual leave, home leave, sick leave or LWOP if appropriate. Employees may be provided Government transportation on a space-available basis. Red Cross confirmation of the emergency should be secured prior to approval of the leave and transportation.

## **Section V**

### **Leave without Pay/Absence Without Leave**

### **5-30. General**

*a.* LWOP is a temporary non-pay status and absence from duty granted at the regular employee's request.

*b.* Periods of LWOP of less than 5 consecutive workdays ordinarily need no documentation other than the appropriate entry on the time and attendance records. Periods of 5 workdays or more will be documented by submission of DA Form 4017 to the servicing CPAC/NAF-CPU. The DA Form 4017 will be placed on the left side of the personnel folder.

*c.* During periods of LWOP, employees participating in the Army Medical/Life Insurance Program must continue to pay contributions if they wish to continue coverage. Arrangements for payment of contributions by the employee are the responsibility of the NAFI manager. Automatic deductions for the employee's contributions will be charged to the

NAFI by the servicing payroll office. The servicing payroll office will notify the NAFI of the amount the employee should reimburse the employer.

### **5-31. Granting LWOP**

- a.* LWOP will be granted as a right to regular employees in the following cases:
- (1) For disabled veterans needing medical attention.
  - (2) For Reservists and National Guard personnel authorized military training or duties.
  - (3) For employees injured in the performance of their duties. (See para 5-23.)
  - (4) Upon request of the employee, for a period NTE 180 days, for the purpose of seeking employment at a new location due to the transfer of a spouse.
  - (5) Upon request of an employee under the coverage of the Family Medical Leave Act. (See para 5-2a.)
  - (6) For military furlough.
- b.* Upon approval of the NAFI manager, LWOP may be granted for illness or disability not of a permanent or disqualifying nature or for other reasons acceptable to the manager. If an employee applies for and is granted LWOP, the period of LWOP may not, at any time thereafter, be converted to AL or SL except as provided in paragraph 5-23d.

### **5-32. Approval of extended LWOP**

Before approving extended LWOP, the approving authority should determine that the employee expects to return to duty (unless the request is made under para 5-31a(4) above) and that a benefit will accrue to the activity. Since extended LWOP encumbers a position and limits the ability of management to utilize resources, approval should be carefully considered. Approval for a regular employee participating in the Army Medical/Life Insurance Program entails the obligation to continue payment of employer contributions during the period of LWOP. Management may disapprove requests for LWOP except for reasons stated in paragraph 5-31a.

### **5-33. Duration of LWOP**

If an employee fails to return to duty within three calendar days of the expiration of the approved period of LWOP, they may be separated for abandonment of position. The maximum period of LWOP that may be granted is one year, except for military service protected by USERRA. An employee that has been granted LWOP due to an on-the-job injury will, at the end of one year, be separated without prejudice, when it has been determined by medical authority that the employee is unable to return to duty and if reasonable efforts to reassign the employee to another position for which he/she qualifies have failed. This separation action does not independently affect or prejudice any claims or payments under workers compensation or disability retirement. If the employee subsequently becomes available for duty, he/she may be reemployed noncompetitively. Absence in a LWOP status does not alter an employee's status in a BBA.

### **5-34. Absence without leave**

- a.* A regular employee's absence from duty that was not authorized or approved is charged on the time and attendance record as AWOL. Pay is withheld for the entire period of such absence. If it is later determined that the absence is excusable, the charge to AWOL may be changed to annual leave, sick leave, or LWOP, as appropriate.
- b.* Periods of AWOL are charged in multiples of 15 minutes. Only absences during the regular employee's scheduled tour of duty may be considered as AWOL.
- c.* Return to duty. When a regular employee's request for leave, either with or without pay, is approved, they have the right to return to their position at the expiration of the approved period of absence. This does not preclude normal BBA.

## **Section VI**

### **Absence for Maternity or Paternity Reasons**

#### **5-35. Consideration of request**

NAFI managers will apply the same leave policies, regulations, and procedures in cases of requests for maternity or paternity absences as are applicable to requests for leave generally.

#### **5-36. Leave for maternity**

RFT and RPT female employees may request sick leave, annual leave, and/or LWOP when incapacitation related to pregnancy and confinement has been properly established by medical authority. Employees may have entitlements under the Family and Medical Leave Act. (See para 5-2a).

#### **5-37. Leave for paternity**

Regular male employees may request annual leave and/or LWOP for purposes of assisting or caring for their minor

children or the mother of their newborn child while she is incapacitated, as established by medical authority, for maternity reasons. Employees may have entitlements under the Family and Medical Leave Act. (See para 5–2a).

## **Section VII**

### **Military Leave, Military Furlough, and Court Leave**

#### **5–38. Military leave**

*a. Entitlement to military leave.* An employee who is serving in a regular position is entitled to time off at full pay for certain types of active or inactive duty in the National Guard or as a Reservist of the Armed Forces without adverse effect on performance rating or loss of pay. This leave is “military leave.” The procedures for use of, charge to, and documentation of military leave shall be the same as those governing military leave for APF employees of DoD.

*b. Reserve Components.* The Reserve Components of the Armed Forces of the US includes the Reserves of the Army, Navy, Air Force, Coast Guard, and Marine Corps and the National Guards of the Army and of the Air Force.

*c. FLX employees.* FLX employees are not entitled to military leave regardless of the number of guaranteed hours.

*d. Types of military duty not covered.* The service listed below is excluded. Absence of regular employees for any of these reasons will be charged to annual leave or LWOP:

- (1) Summer training as members of Reserve Officers Training Corps (ROTC).
- (2) Temporary Coast Guard Reserve duty.
- (3) Participation in parades by members of the State National Guard, except DC National Guard (who are entitled to military leave for this purpose).
- (4) Training with a State Guard or other State military organization.
- (5) Civil Air Patrol duty.

*e. Maximum amount of military leave.*

(1) Military leave for training purposes is limited to a maximum of 120 hours for full-time employees during each fiscal year, regardless of the number of training periods in the year, and regardless of whether taken intermittently or all at one time. Any part of this military leave that is not used in any fiscal year accumulates for use in succeeding years, not to exceed a 120 hours maximum carryover per fiscal year. Therefore, a regular employee could have a maximum of 240 hours for use during a fiscal year. In the case of RPT employees, the rate at which military leave accrues will be a percentage of the full-time authorization of 120 hours. The percentage will be determined by dividing the number of hours in the employee’s basic workweek by 40. While on military leave, employees will receive their full compensation from the employing NAFI and will retain all military pay and allowances.

(2) Regular employees who are members of the National Guard or Armed Forces Reserves and who are called to duty to provide military aid to enforce the law may be granted additional military leave, not to exceed 22 workdays in a calendar year. Payment to the employee will be reduced by any amount of pay (other than travel, transportation, or per diem allowances) received by the employee for military service for this purpose, up to the amount paid by the NAFI for the same period of time. Civilian pay will be reduced by only the amount received for military service performed on a workday; any amount of military pay the individual may receive for non-workdays is not considered.

*f. Computation.* The minimum charge for military leave is 1 hour and additional charges are in multiples of 1 hour. An employee will not be charged military leave for hours that he or she would not otherwise work.

#### **5–39. Military furlough**

Regular and flexible employees in continuing positions (without time limits) will be placed in a military furlough status for purposes of induction into the Armed Forces of the US or recall to active duty. When the employee returns to NAF duty from military furlough, they will be placed in the same position and will have the same seniority, status, pay, and leave accrual entitlements they would have enjoyed had they remained in the NAF position. When the military furlough lasts more than 90 days, the employee may be placed in a comparable position with the same seniority, status, pay and leave accrual entitlements, if the same position is not available.

#### **5–40. Court leave**

*a. Policy.* Regular employees will be authorized court leave or absence without charge to annual leave for jury duty and to appear in court in an unofficial capacity as a witness when the US, the District of Columbia, or a State or local Government is a party to the proceedings. This policy does not apply to a judicial proceeding which involves only private parties or employees called as court witnesses in an official capacity.

*b. Employee eligibility.* Regular NAF employees, and FLX employees that have guaranteed hours identified in item 25 on DA Form 3434.

*c. Evidence to be submitted.* When an eligible employee is called to court service, either as a witness or a juror, they are required to present the court order, subpoena, or summons, if one was issued, as far in advance as possible. Upon return to duty, written evidence of attendance at court is required, showing the dates (and hours if possible) of the service. Usually, statements may be obtained from the clerk of the court. If the court clerk does not furnish a statement, the employee must submit a certified statement containing the required information.

*d. Pay.*

(1) A regular employee who is granted court leave will collect all fees due for such service and forward them, exclusive of transportation, meals, or expense allowances, to the employing NAFI. Employees must be instructed, in writing, of this requirement by the appropriate supervisor prior to such service. The fees will be applied against the salary due the employee. Any fees in excess of regular salary will be returned to the employee. Regular salary includes premium pay otherwise due the employee. When the employee appears in court on days that do not conflict with the employee's basic workweek, court leave is not authorized, and the employee retains all fees.

(2) A FWS night shift regular employee who appears in court during the day will be granted court leave for their regularly scheduled night tour of duty and is entitled to the shift differential.

*e. Leave status.* Regular employees on annual leave when summoned for a court appearance are entitled to have court leave substituted for annual leave. Regular employees in a LWOP status when summoned may not be granted court leave. The LWOP status remains unchanged and the employee is entitled to retain all fees and allowances.

*f. Non-government witness.* When a regular employee is called as a witness in a judicial proceeding involving only private parties and not in an official capacity, the absence from duty must be charged as either annual leave or as LWOP, and the employee is entitled to retain all fees and allowances due for such service.

## **Section VIII**

### **Excused Absences**

#### **5-41. Uncontrollable shutdowns**

When conditions warrant, commanders or their designated representatives have the authority to shut down all or part of a NAFI. The shutdown may be due to military necessity, weather conditions, an act of God, or other events beyond the control of management.

#### **5-42. Effect of shutdown**

*a.* During periods of shutdown, caused by events beyond the control of management, all appointment categories of employees at work or scheduled to be present for duty will be excused without charge to leave or loss of pay.

*b.* When regular employees are already on leave at the time the NAFI is closed, they will be placed on administrative leave only for that portion of the shutdown that extends beyond the period of their previously approved leave.

*c.* The authority to excuse employees administratively should not be used when the period of interrupted or suspended operations can be anticipated sufficiently in advance to permit arranging for assignment to other work or the scheduling of annual leave. When 24 hours advance notice is given, regular employees who cannot be assigned to other work within the same pay period may be placed on annual leave, with or without their consent, or LWOP in the event they do not have sufficient annual leave to their credit. Efforts will be made to keep to a minimum the occasions on which a regular employee is required to take leave with 24 hours notice.

#### **5-43. Foreign holidays**

When all or part of a NAFI in a foreign country is closed in observance of a local holiday that prevents regular US citizen employees from performing their regular duties, every effort should be made to assign them to other work. If reassignment is not possible, they may be excused without charge to leave or loss of pay.

#### **5-44. Exception**

Employees may not be excused without charge to leave or loss of pay solely because of the occurrence of a State or local holiday.

#### **5-45. Excused absences**

*a.* Managers are responsible for determining the situations in which they will excuse employees from duty with no charge to leave or loss of pay. Such excused absences will be administered on an impartial basis and will be uniformly applicable to all employees.

*b.* The grant of time off as an employee incentive is authorized. (See chap 9.)

#### **5-46. Shutdowns or curtailment of work for managerial reasons**

*a.* When all appointment categories of employees are prevented from working for managerial reasons (such as early closure because of no patrons, training holidays, construction, refurbishing, fumigation, etc.), they will be excused without charge to leave or loss of basic pay for their scheduled hours for that day, unless reassignment or rescheduling can be accomplished within the same pay period. Every effort will be made to reassign affected employees to other duties.

*b.* When shutdowns or curtailments of work for managerial reasons are in excess of one workday, regular employees may be placed on enforced annual leave or LWOP. An advance written notice equal to the period of shutdown is required for shutdowns up to fourteen days. For shutdowns of from fourteen to thirty days, the advance notice period is fourteen days. When it is known that the period will exceed thirty days, BBA procedures will be used to determine

employees to be placed on enforced annual leave or LWOP. This action should not be confused with the furlough of employees, which is an action taken to reduce costs. (See chap 10).

c. Every effort will be made to utilize such shutdown periods for training or other work where feasible to minimize adverse impact upon employees.

## **Chapter 6**

### **Performance Evaluation and Rating**

#### **Section I**

#### **General**

##### **6-1. Applicability**

The provisions of this chapter apply to employees serving under a regular appointment and FLX pay band system employees. The principles of the performance evaluation program, however, apply to all employees.

##### **6-2. Purpose**

The purpose of this chapter is to establish a system for evaluating the quality of employee performance on a continuing basis against realistic performance requirements. The system provides for advising employees about these requirements and the evaluation of their performance, for recognizing exceptional performance, for action to improve performance and for administering unsatisfactory performance actions.

##### **6-3. Policy**

a. The performance of NAFI employees will be evaluated fairly and objectively on both a scheduled and continuous basis with the results of such evaluation discussed individually with each employee.

b. Performance evaluation will be utilized to increase the efficiency of both employees and supervisors.

c. Performance evaluation will be used as a basis for making decisions on training, retention, promotion, reassignment, removal, and other personnel actions. Performance evaluations will also be used—

(1) To keep employees continuously aware of the performance required.

(2) To give them a reasonable opportunity to achieve their best performance.

(3) To provide constructive help in correcting weak points in performance.

(4) To resolve misunderstandings.

(5) To develop constructive relationships between supervisors and employees.

(6) To advise employees on whether they meet, fail to meet, or exceed the standards for satisfactory performance.

d. Employee performance will be evaluated only under reasonable standards that are in effect during the rating period, are known to the employee, and that the employee has had a fair opportunity to meet.

e. No requirement will be established that performance ratings conform to a predetermined distribution, numeric quota, or ratio for the various types of ratings.

f. The performance rating process or methods will be made known to both employee and supervisors.

g. No policy, control, or procedure will be established which prevents fair evaluation of performance in relation to the appropriate performance requirements.

h. Employees will be evaluated on the basis of their application of knowledge and skills pertinent to their positions, the quality and quantity of their work, and the work relationships and personal traits that contribute to their value and efficiency as employees.

i. Each employee will be furnished a copy of his/her annual performance evaluation form.

j. Supervisors will discuss with each employee the employee's annual performance evaluation on or near the date the evaluation is made. He/she will also advise the employee, when it appears necessary, of unsatisfactory performance and offer assistance in helping the employee improve.

##### **6-4. Administration of the Performance Evaluation System**

a. *Firstline supervisors.* The firstline supervisor will be responsible for developing performance standards for each position supervised and for continuously evaluating the employee's performance. He/she will acquaint each employee supervised with the performance rating system and the performance standards pertinent to the employee's position. He/she should informally discuss with the employee from time to time the degree to which the employee meets, fails to meet, or exceeds the standards, and should counsel the employee on how to become more efficient. The supervisor is responsible for the annual performance rating and for providing to the employee a copy of the approved performance rating. He/she will evaluate each employee serving a probationary period and recommend retention or removal. He/she is also responsible for preparing justifications to support outstanding and unsatisfactory ratings and for initiating letters of warning. He/she is also responsible for initiating proposals for awards based on performance.

*b. Secondline supervisors.* The secondline supervisor is responsible for reviewing ratings recommended by the firstline supervisors including related justifications, letters, and notices. He/she has final authority. When the secondline supervisor is distant geographically or organizationally and is not in a position to have knowledge of the performance, the firstline supervisor may be delegated full authority to approve evaluations.

*c. Servicing CPAC/NAF-CPU.* The servicing CPAC/NAF-CPU is responsible for administering the personnel performance evaluation program and will notify supervisors when annual performance ratings and probationary ratings are due. The servicing CPAC/NAF-CPU will maintain a record copy of each annual performance rating, with supporting documents, in the employee's OPF.

## **6-5. Performance standards**

*a. General.* Performance standards will be established for each critical major duty that is essential to successful performance. They will indicate the quality of performance which is satisfactory for a specific position. They must be reasonable and of such a nature that an employee meeting the minimum qualification standards for the position can be expected to perform satisfactorily within a reasonable time after assignment to the position. They should be sufficiently high to assure an efficient operation but not so high that outstanding performance is beyond the achievement of a competent employee. Performance standards will be established, in writing, for each position. No specific form or format is prescribed and forms may be developed to meet local needs. The use of forms designed for appropriated fund employees is authorized. Supervisors are responsible for ensuring that their employees understand what constitutes an acceptable level of competence for their specific positions.

*b. Cooperation in developing or revising performance standards.* Performance standards will be established based on knowledge of the duties of the position and the end product desired. The viewpoint of the incumbent is valuable in determining whether established standards are still realistic in view of current assignments and any recent organizational changes. Therefore, the employee's viewpoint should be sought and considered by the supervisor.

*c. Aspects of performance.* Performance standards may be established for any or all of the following aspects of a position. The aspects listed are not all-inclusive and some may merit greater weight than others for a particular position. They are not mutually exclusive; e.g., the quantity of work cannot be completely separated from the ability to organize and schedule work. Supervisors should add to the following list any aspects pertinent to a position and eliminate any which may not apply.

- (1) Quality of finished work.
- (2) Quantity of work.
- (3) Adaptability to new assignments and to changes in instructions, work methods, work situations, organization, or staff.
- (4) Relationships with other employees.
- (5) Relationships with employees of other agencies and outside organizations.
- (6) Timeliness.
- (7) Cost effectiveness.
- (8) Achievement of desired goals.
- (9) Leadership and initiative.
- (10) Ability to use professional, technical, mechanical, clerical, or supervisory knowledges and skills pertinent to the position.
- (11) For jobs in which dealing with the public is important, courtesy to the public must be reflected as pertinent.
- (12) For supervisors, furthering equal employment opportunity is an essential element of performance. Factors to be considered in performance evaluation regarding equal employment opportunity include—
  - (a) Personal participation in EEO program leadership and administration.
  - (b) Fairness in making selections.
  - (c) Encouragement and recognition of employee achievements.
  - (d) Treatment of minority group employees and women.
  - (e) Discipline – Applies equal penalties for equal situations.
- (13) For positions in which accountability for property is critical, effective stewardship of this responsibility will be included as an essential element of performance.

*d. Internal control responsibilities.* Performance standards for managers will include internal control responsibilities per AR 11-2, para 2-10. The internal control-related content of performance standards must be tailored to their relative importance and other circumstances associated with each manager.

*e. Establishing performance standards.* In establishing performance standards for some positions it is often possible to identify quantifiable levels of attainment, e.g., increase sales by 5 percent, 10 percent, etc. In these cases consideration should be given to directly associating the amount of a monetary award with each level of accomplishment. This procedure serves as a visible incentive to the employee, prior to the start of the performance period, and simplifies the awards procedure. (See also para 9-8.)



## **6-6. Probationary period evaluations**

Supervisors of probationers will observe their conduct, general traits, and performance closely and assist them in adjusting to the job and in performing their duties in a satisfactory manner. Upon determination that the employee should be retained, the supervisor will so indicate on DA Form 3612 (Nonappropriated Fund Instrumentality Employee Performance Rating). If retention is not recommended, separation will be accomplished in accordance with paragraph 2-19j. Absences in a non-pay status of more than 15 workdays will not be included in computing the probationary period.

## **6-7. Annual performance ratings**

*a. Rating period.* Each employee defined by paragraph 6-1 will be given a performance rating annually. The ratings will be due on a specified date each year or on the anniversary date of the employee's service computation date, as determined by the servicing CPAC/NAF-CPU. The determination will be applied to all NAFI serviced. The ratings will ordinarily cover the most recent continuous, 12-month period of employment (time served in a probationary period is included). If the employee has served less than 120 days under his or her current supervisor, the annual rating may be prepared by the current supervisor after consultation with the previous supervisors or may be delayed until the end of the 120 day period. An annual performance rating remains in effect until superseded by the next successive annual rating.

*b. Levels of performance.* Any one of five ratings may be assigned to indicate the level of performance as follows:

(1) *Outstanding*— This rating is authorized when all aspects of performance have exceeded the standard for satisfactory performance for a 12-month period and are sufficiently outstanding to deserve special commendation and recognition. Each outstanding rating must be supported in writing by the rating official and approved by the supervisor next above. The employee will be presented a DA commendation certificate. In addition, an award not to exceed 15% of annual salary may be awarded. See paragraph 9-3.

(2) *Excellent*— This rating is authorized when the majority of performance standards are exceeded. Employee performance is of a quality clearly exceeding the standard for a satisfactory rating and merits consideration for a special achievement award not to exceed 5 percent of annual salary. See paragraph 9-3.

(3) *Satisfactory*— A satisfactory rating is authorized when the employee's performance meets, but does not exceed the standard to the degree required for a rating of excellent. This rating meets acceptable level of competence requirements.

(4) *Minimally satisfactory*— The employee meets established performance standards in a marginal manner and is often below the satisfactory level in one or more non-critical areas. The employee will be counseled on duty requirements and given an opportunity and training to improve performance.

(5) *Unsatisfactory*— An unsatisfactory rating is authorized when an employee's performance fails to meet established requirements for satisfactory performance for one or more critical major duties, in spite of a written warning notice and reasonable effort by the supervisor to help the employee improve. Action will be immediately taken to reassign, demote, or separate the employee in accordance with paragraph 6-10 of this chapter.

## **6-8. Performance rating records**

Each supervisor will use DA Form 3612 (Nonappropriated Fund Employee Performance Rating) to record the performance evaluation of each covered employee he/she supervises. The original DA Form 3612 will be used to notify the employee of his/her annual performance rating. A copy of each DA Form 3612, signed by the employee, the rater, and the approving official, will be placed in the official personnel folder (OPF) of the employee. A copy will also be retained by the employee's supervisor. All performance ratings will be placed on the right side of the folder and become permanent records. All statements of justification for ratings will be considered a part of the rating and will be retained accordingly.

## **Section II**

### **Unsatisfactory Performance Actions**

## **6-9. Communication**

Counseling employees about specific performance deficiencies as soon as they arise and offering appropriate assistance can often prevent more serious performance problems. It is important that employees be given a reasonable chance to demonstrate acceptable performance. The determination of the appropriate length of time for an employee to improve should be made on a case-by-case basis. Individual supervisors are in the best position to understand the work requirements of their units and the nature of the employee's duties and responsibilities and, therefore, to exercise judgment in determining how to reasonably structure the employee's opportunity to improve.

## **6-10. Administration of unsatisfactory performance actions**

*a.* When an employee is determined to be failing to meet established levels of performance, the supervisor must notify the employee in writing of the specific elements for which performance is unsatisfactory. The employee will be informed of the level of performance that must be attained and the time that will be allowed to provide a reasonable

opportunity to achieve the required level of performance. A tool that in some cases can help in accomplishing this is a formal written performance improvement plan. Such a plan provides a structured means of identifying the areas of deficiency and laying out a plan for improving the employee's performance. In all cases, the employee should be given every assistance reasonable to achieve acceptable performance.

b. An employee who has completed the probationary period may be rated unsatisfactory only after a prior written warning of proposed unsatisfactory performance rating giving the employee not less than 30 days during which he or she will be given a reasonable opportunity to demonstrate satisfactory performance. The written warning will state:

- (1) What performance requirements the employee fails to meet.
- (2) What must be done to bring performance to a satisfactory level.
- (3) What efforts will be made to assist improvement.
- (4) That failure to improve will result in adverse action up to and including separation.

c. After affording the employee an opportunity to improve in accordance with para 6–10a. above, the first-line supervisor who determines that the employee's performance is still unsatisfactory may propose an adverse personnel action in coordination with the servicing CPAC/NAF–CPU and the servicing legal office. The proposal notice will—

- (1) Identify the specific action proposed and effective date.
- (2) State that the proposed action will be made effective not earlier than 30 calendar days from the date of receipt of the notice.
- (3) State specifically and in detail the reasons supporting the proposed action. The proposal will identify the performance requirements which the employee failed to meet and what action was taken to assist the employee to improve.

(4) Inform the employee of the right to review the material relied on as a basis for proposing the action and where it may be reviewed.

(5) Inform the employee of the right to reply orally, in writing, or both, to submit affidavits in support of the answer, and to be represented by a person of his/her own choosing, provided that the person chosen is willing to represent the employee and is free to do so. The representative, however, cannot serve in that capacity if there are priority needs of the NAFI, unreasonable costs to the NAFI, a conflict of position, or conflict of interest.

(6) Identify the person to receive the written and/or oral reply. (The person designated to hear the reply will be the person who has authority to make the final decision, ordinarily the approving official for the employee's performance rating but never the same supervisor who issued the proposal notice.)

(7) Specify the time limit for submission of the reply, which will not exceed 15 calendar days from the date the employee receives the notice.

(8) Inform the employee of the amount of official time which will be permitted, without loss of pay or charge to leave, for preparation of the reply.

(9) Inform employee that the reply will be considered before a final decision is made to effect, modify, or cancel the proposed action and that he/she will be notified in writing of the final decision.

d. Where possible, the proposed notice should be delivered personally to the employee and a written acknowledgement of receipt obtained. If the notice is to be delivered by mail, provision should be made to obtain proof of delivery.

e. The first-line supervisor will forward to the deciding official, thru the servicing CPAC/NAF–CPU, a copy of the proposal notice and supporting documentation, the warning of proposed unsatisfactory performance rating, and the DA Form 3612 with the rater's portions completed. Action to finalize the performance rating will be held in abeyance until the employee has had the opportunity to reply to the proposed adverse action provided for by para 6–10c.

f. After coordination with the servicing CPAC/NAF–CPU and the servicing legal office, a written notice of decision will be issued to inform the employee of—

- (1) The specific action to be taken.
- (2) For regular employees (other than those on limited tenure appointments), the right to grieve the adverse action.
- (3) Where applicable, the requirement that a grievance must be filed within 15 calendar days following the effective date of the action, and the exact name and address of the individual to whom the grievance should be addressed.
- (4) The effective date of the action. The effective date may not be earlier than 30 calendar days from the date the employee received the notice of proposed action; the day the notice was delivered and the day the personnel action is to be effected shall not be counted in this 30-day period.

g. The finalized performance rating (DA Form 3612) will be delivered to the employee at the same time as the notice of decision. A copy of the official adverse personnel action (DA Form 3434) will also be delivered to the employee at the same time, unless the decision is to cancel the proposed action.

## **6–11. Adverse action records**

a. The servicing CPAC/NAF–CPU will maintain records relating to each action that will, as a minimum, consist of—

- (1) A copy of the written warning of proposed unsatisfactory performance rating.
- (2) A copy of the notice of proposed adverse action.

- (3) The material relied on to support the proposal.
- (4) Any answer from the employee.
- (5) The notice of decision that effects the adverse action.
- b.* Such records will be included in the employee's OPF.

## **Chapter 7**

### **Disciplinary Actions**

#### **7-1. Introduction**

This chapter provides guidance on the maintenance of discipline within NAFIs and furnishes information on procedural requirements that must be met in taking disciplinary actions.

#### **7-2. Coverage**

- a.* The provisions of this chapter apply to all employees paid from nonappropriated funds.
- b.* This chapter does not apply to any action taken under any statute or other DA regulation independently authorizing the suspension or separation for cause of an employee (for example, a suspension or separation for cause in the interest of national security under authority of 5 USC 7532). This chapter also does not apply to separations from limited tenure or flexible appointments; authority to separate employees with such appointments is contained in chapter 2.
- c.* This chapter applies to action recommended against a NAF employee in a position of authority found to have engaged in reprisal against an employee or applicant who made a protected disclosure (whistleblower). The disciplinary action will be as directed by the Deputy Assistant Secretary of Defense (Administration) or the appropriate commander.

#### **7-3. Principles**

- a.* Maintenance of discipline will be achieved, to the maximum extent possible, through cooperation, fairness, good supervisory practices, and adherence to reasonable standards of conduct.
- b.* Supervisors should, when appropriate, admonish and counsel employees as the first step in constructive discipline to prevent breaches of regulation and standards of conduct and to prevent repetition of offenses.
- c.* Reasonable and timely penalties will be imposed on employees whose conduct is detrimental to the efficiency of the service.
- d.* Responsible judgment must be exercised in selecting among the variety of disciplinary penalties that may be imposed. The following must be considered in reaching a decision on the action to be taken:
  - (1) The seriousness of the offense.
  - (2) The past record of the employee.
  - (3) The circumstances contributing to the offense.
  - (4) The probable effectiveness of the penalty in stimulating improvement.
  - (5) The reasonableness of the penalty.
  - (6) The time period since a previous-like offense.
  - (7) The influence of the penalty on the morale of other employees. In addition, there may be factors and considerations other than those mentioned above that are pertinent to the selection of the penalty. The action selected should be reasonable and of such nature as to promote the efficiency of the NAFI. (Since NAFIs generally are operated in the same manner as business enterprises and employees are often engaged in handling cash, food-stuffs and liquor, incidents of theft or drinking on duty must be treated as major offenses that can result in separation for a first offense.) In selecting penalties, table 7-1 will be used as a guide. Since many factors must be considered in selecting a penalty, the table is not intended to be directive but is provided for illustrative purposes.
- e.* Disciplinary action and/or official investigation of an incident should be initiated on a timely basis (usually within 10 calendar days of the occurrence of the incident or within 10 calendar days of the discovery of the incident by appropriate supervisory officials.)
- f.* When an applicant is hired by a NAFI with full knowledge of certain facts concerning his or her past behavior, a disciplinary action may not be proposed against that employee based on one or more of such facts. However, such information may be used in support of a charge to show a pattern of conduct or behavior, carried over into an individual's employment with a NAFI.
- g.* If an employee has been disciplined for an offense, no further disciplinary action will be proposed against that employee for the same offense. Action may be proposed for a similar or repeated offense. In addition, prior offenses may be used in support of a charge to show patterns of conduct or behavior, and prior disciplinary action may be used in determining an appropriate penalty for a current offense.
- h.* When a supervisor considers that formal disciplinary action may be required to correct misconduct on the part of

a subordinate employee, the supervisor should obtain all available information concerning the alleged misconduct. The supervisor should then discuss the incident with the employee to—

- (1) Ensure that all the relevant facts are known to both parties;
- (2) Afford the employee the opportunity to explain the basis for his/her actions; and
- (3) Advise the employee that disciplinary action is under consideration. Since disciplinary action could result from this interview, a bargaining unit employee must be provided the opportunity to be accompanied by a personal representative if representation is requested. If the employee presents a satisfactory explanation for his/her conduct, the matter will be closed and the employee so advised. If the employee fails to provide a reasonable explanation for the misconduct, the supervisor will prepare a memorandum for the record of the meeting and initiate appropriate disciplinary action.

#### **7-4. Alternative discipline**

MACOM or installation commanders may choose to use an alternative discipline program. In such cases clear program guidelines must be established which conform to the notification requirements contained in this chapter. Supervisors and employees must be made aware of the guidelines. A copy of any alternative discipline plan will be forwarded to HQDA (DAPE-CP-NAF) prior to implementation.

#### **7-5. Types of disciplinary actions**

Informal disciplinary actions consist of oral admonishments and written reprimands. Formal disciplinary actions consist of suspensions from duty without pay (for a maximum of 14 calendar days except when statute requires a greater penalty) or separation for cause.

#### **7-6. Oral admonitions**

An oral admonishment should be employed as promptly as may be necessary in situations of a minor nature involving violation of a rule, regulation, standard of conduct, safety practice, or authoritative instruction. Supervisors are responsible for maintaining discipline in their organizations and, therefore, are the most appropriate individuals to admonish a subordinate employee. To be most effective, it should be conducted promptly, privately, and in an informal manner so as not to embarrass the employee in front of co-workers. The employee should be advised of the specific infraction or breach of conduct, exactly when it occurred, and be permitted to explain his/her conduct or act of commission or omission.

#### **7-7. Letters of reprimand**

a. When a determination is made that a written reprimand is necessary, the supervisor will prepare the letter of reprimand in draft and submit it to the servicing CPAC/NAF-CPU for technical review and coordination with the servicing legal office. The servicing CPAC/NAF-CPU will assure that the letter of reprimand is consistent with governing regulations and local disciplinary policy and practices before delivery of the letter to the employee. The letter of reprimand will be signed by the appropriate supervisor and will include the following:

- (1) A description of the offense in sufficient detail to enable the employee to understand fully the violation, infraction, conduct, or offense for which he or she is being censured. Such specifics as time, place, dates, and events should be included in describing the incident which gave rise to the disciplinary action.
- (2) In the event the reprimand is a follow-up to previous offenses and the action is considered a continuation of constructive discipline, the former incidents will be re-stated. Additionally, if the employee failed to take any remedial action previously agreed to, that fact will be included.
- (3) In cases where it is determined to be advantageous for preventive purposes, a warning will be included that future misconduct may result in considering a formal disciplinary measure.
- (4) If appropriate, advice will be given to the employee regarding assistance available to the employee for remedial purposes or as a means to help overcome the deficiency and avoid future recurrence. Additionally, the employee will be informed regarding any specific action required of him/her.
- (5) A statement that the reprimand will remain in the employee's OPF for a specified period of no more than 2 years, unless sooner removed by the issuing authority.
- (6) Information regarding the right to request a review of the action within 10 days after receiving the letter of reprimand.

b. A written reprimand is not permanent in nature and must be withdrawn from the OPF:

- (1) Upon expiration of the period specified in the letter of reprimand.
- (2) Upon separation of the employee from the rolls of the employing activity.
- (3) Upon determination through an appropriate adjudicative procedure that the reprimand is unwarranted and must be withdrawn.
- (4) Upon determination by management that the reprimand should be withdrawn.
- (5) At the time that a written reprimand is withdrawn, a complete review should be made of the OPF to ensure all references to the reprimand are removed.

c. A review of the issuance of a letter of reprimand will be made under the following circumstances:

(1) An employee may request a review of the issuance of a letter of reprimand within 10 days of receipt of the letter. This request must be presented to the next level supervisor above the issuing supervisor who is not a party to the issue. Such presentation may be made orally or in writing. The right to representation will be the same as stated in paragraph 8-5.

(2) The review process will not include calling of witnesses unless determined by the reviewing official to be essential to a full and fair review of the action. The review decision will be issued promptly in writing and will address all issues raised in the request for review. The reviewing official will notify the employee that no further review is authorized.

## **7-8. Suspensions**

a. A suspension is a period during which an employee is placed in a temporary non-duty, non-pay status as a formal disciplinary measure. The supervisor of an employee is the individual primarily responsible for initiating suspensions. Notices of proposed suspension ordinarily will be prepared and signed by the first level supervisor and, upon technical review by an official of the servicing CPAC/NAF-CPU and coordination with the servicing legal office, delivered to the employee. Decisions to suspend an employee ordinarily will be made and signed by the second level supervisor and after review by an official of the servicing CPAC/NAF-CPU and in coordination with the servicing legal office, delivered to the employee. A suspension for more than 14 days is not authorized except for instances of unauthorized use of an official vehicle. (See table 7-1.)

b. The proposed suspension will be issued as far in advance of the action as feasible, and must allow for an advance notice period of 10 days.

c. The notice of a proposed suspension must—

(1) Specify the earliest date the proposed suspension will begin and its duration.

(2) State all reasons supporting the proposed action specifically and in detail.

(3) Inform the employee of the right to review any material relied on as a basis for taking the action and where it can be reviewed.

(4) Advise the employee that he/she may make a reply within 5 calendar days of receipt of the notice, whether in person, in writing, or both.

(5) Inform the employee of the right to be accompanied by a representative when presenting an oral reply.

(6) Advise the employee that his/her reply will be considered in reaching a decision on the proposed action if filed within the 5 day period following receipt of the notice.

(7) Identify the deciding official to whom any reply should be addressed (usually the second level supervisor but never the same person who issued the proposal).

d. If the employee makes a timely reply, it will be given consideration prior to any decision to effect the proposed action. If a decision is made that the proposed action will not be effected, the employee will be notified in writing. If the decision is to effect the proposed suspension, or a lesser disciplinary action, a notice of decision will be delivered to the employee on or before the time any suspension becomes effective. DA Form 3434 is not prepared for suspensions.

e. The decision to effect the suspension must inform the employee of the reasons for the action, and of the right to file a grievance, provided it is filed not later than 15 calendar days after the effective date of the suspension. The reasons for the action stated in the letter of decision must be the same as those stated in the notice of proposed action, unless it has been determined that one or more of the reasons are no longer considered as justifying the decision. The decision may not be based on a reason which was not included in the notice of proposed action.

## **7-9. Separations for cause**

Separations for cause will be taken only for such reasons as will promote the efficiency of the service.

a. Notices of proposed separation will be prepared and signed by the supervisor and, upon technical review by an official of the servicing CPAC/NAF-CPU and coordination with the servicing legal office, delivered to the employee. Decision will be prepared and signed by the deciding official (usually the next higher level supervisor but never the same person who issued the proposal) and, upon technical review by an official of the servicing CPAC/NAF-CPU and coordination with the servicing legal office, delivered to the employee.

b. An employee against whom a separation is proposed will be given at least a 30-day advance notice of the proposed action. The full 30-day advance written notice is not required for a separation when the circumstances are such that retention of the employee in a duty status during the notice period may be injurious to the employee, to fellow workers or the general public, may result in damage to property or loss of funds, or because the nature of the employee's offense may reflect unfavorably on the public perception of the Army. Under these circumstances, the employee may be placed in a non-duty status with pay (within the employee's basic workweek). The advance notice of proposed separation will provide not less than 5 days for the employee to reply and such time as would be reasonable under the circumstances for the separation to be effective.

c. When a 30-day advance notice period is given, the notice will state that the proposed separation will be effective

not earlier than 30 days from the date of receipt of the notice of proposed separation. If the full 30-day advance notice period is not required pursuant to the above paragraph, the notice will state the specific date on which the proposed action will become effective.

*d.* In computing the advance notice period, the day the notice is delivered and the effective date of the separation will not be counted in the notice period.

*e.* Separation will be effective at midnight on the date specified in the notice of decision, unless a different time is specified in the notice.

*f.* The notice of proposed separation will—

(1) State specifically and in detail the reasons supporting the proposed action, including names, dates, times and places.

(2) Include a detailed statement of any part of the employee's past record that is considered as contributing to the severity of the proposed action.

(3) Inform the employee of the right to review the material relied on as a basis for taking the proposed separation and where it can be reviewed.

(4) Inform the employee regarding the right to reply orally, in writing or both, with representation if desired, and to submit affidavits in support of the reply.

(5) Identify the person to receive the written and/or oral reply (normally the second level supervisor but never the same person who issued the proposal).

(6) Specify the time limit for submission of the reply which will, normally, not exceed 15 days.

(7) Inform the employee regarding official time permitted, without loss of pay or charge to leave, for preparation of the reply.

(8) Inform the employee that any reply timely made will be considered before a final decision is made to effect, modify, or cancel the proposed action, and that he/she will be notified in writing of the final decision.

*g.* The notice of proposed separation should be delivered personally to the employee and, if possible, a written acknowledgment of receipt obtained. If the notice must be delivered by mail, provision must be made to obtain a receipt of delivery. When the NAFI issuing the notice has made every reasonable effort to effect delivery and it is evident that the employee has acted to evade timely delivery or acceptance of the notice, the notice is valid as far as the issue of delivery is concerned.

*h.* If the employee chooses to reply to the advance notice orally, he or she will be afforded an opportunity to be heard and may be accompanied by a representative if desired. The employee will be permitted to make any presentations that the employee believes should be considered before the final decision is made. The right to make a reply in person does not include the right to a hearing with testimony from witnesses for both sides of the controversy but is an opportunity for refutation of the advance notice. When a reply is made in person, the deciding official will ensure that a written summary is made of the personal reply and, if possible, the employee's signature will be added to it as an indication of its accuracy.

*i.* When a reply is received from an employee against whom a separation is proposed, the official rendering the decision will give it careful, detailed, and objective consideration. The proposed action may be withdrawn, or a less severe one substituted without issuing a new notice. The action decided upon may not be based on reasons not specified in the initial notice of the proposed action. If any additional reason or reasons are used to support the action, a new notice of proposed action is required which will specify a new advance notice period.

*j.* The notice of decision will be reviewed for technical compliance by the servicing CPAC/NAF-CPU in coordination with the servicing legal office prior to dispatch. It will be dated and in writing and will be issued promptly after the decision is made. DA Form 3434 may be used and enclosed with the notice of decision.

*k.* Each notice of decision will include the information indicated in (1), (2), and (3) below, and when the proposed action is not withdrawn, also the information in (4), (5), and (6) below:

(1) Include the date the notice of proposed action was issued.

(2) Identify each reason which was included in the notice of proposed separation and discuss those relied on to support the action and those reasons that were not sustained.

(3) State the decision.

(4) Inform the employee of the right to grieve the action and that the grievance must be filed before the expiration of the 15 day period immediately following the effective date of the action.

(5) Furnish the exact name and address of the person or office to which the grievance should be addressed. (See chap 8.)

(6) Specify the date on which the action will be effective.

## **7-10. Records**

*a. Location of records.* Letters of reprimand and employee replies to them will be placed on the left side of the OPF. A letter of reprimand will not be placed in the OPF when a review has been requested, unless and until a decision is made on the request review. Letters of reprimand may be removed from the personnel folder at any time the

issuing authority determines the employee has made sufficient progress to warrant such removal. Letters of decision to suspend or separate an employee for disciplinary reasons, notices of proposed actions and employee replies will be retained as permanent records on the right side of the OPF.

*b. Release of Information.* An exact copy or an extract of the actual language of a written reprimand, notice to suspend, or notice to separate for cause normally should not be released to sources other than authorized Federal or NAFI officials without the written consent of the person who received the disciplinary action. However, if determined that the release would not be prohibited by law, the reason shown on the DA Form 3434 (for a separation for cause) or a brief statement of the nature of the offense and the specific disciplinary action imposed may be furnished without the consent of the employee. The employee's right to privacy should be the paramount consideration in determining whether to release information to other employers or individuals. In all cases, requests for information should be referred to the installation Freedom of Information Act official for guidance concerning the disclosure of information from civilian personnel records. For specific guidance, see AR 25-55 and AR 340-21.

**Table 7-1**  
**Penalties for delinquency or misconduct<sup>1</sup>**

Offense	First offense	Second offense	Third offense
1. Insubordination (refusal to obey orders, impertinence, like offense).	Official written reprimand, or 1-day suspension.	2-5 day suspension	6-14 day suspension or separation.
2. Fighting or creating a disturbance resulting in an adverse effect on morale, production, or maintenance of proper discipline.	1-3 day suspension.	4-6 day suspension.	7-14 day suspension or separation.
3. Sleeping on duty (where safety or personnel or property is not endangered thereby).	Official written reprimand, or 1-3 day suspension.	4-6 day suspension.	7-14 day suspension or separation.
4. Sleeping on duty (where safety of personnel or property is endangered thereby).	5-14 day suspension or separation	Separation.	
5. Drinking intoxicants while on duty; or reporting for duty intoxicated to a degree which would interfere with proper performance of duty, be a menace to safety of persons or property, or be prejudicial to the maintenance of discipline. <sup>3</sup>	1-14 day suspension or separation.	Separation.	
6. Absence without leave (any absence from duty which has not been authorized and for which pay must be denied. If absence is for 3 work days or more, see paragraph 2-14d.	Official written reprimand, or suspension of 1-3 days.	4-6 day suspension.	7-14 day suspension or separation.
7. Debt complaints (neglecting or avoiding payment without sufficient excuse or reason).	Counseling, See AR 690-700, Chapter 735, appendix D.		
8. False statements, misrepresentation, or fraud in completing application for employment or promotion or in other official records submitted to the Department of the Army. Apparent oversights and errors, where satisfactorily explained, may be excused where not otherwise disqualifying.	5-14 day suspension or separation.		
9. Loafing (willful idleness or deliberate failure to work on assigned duties)	Warning or official written reprimand.	Official written reprimand or 1-3 day suspension.	6-14 day suspension or separation.
10. Theft. <sup>2</sup>			
11. Gambling on duty.	Official written reprimand, or 1-5 day suspension.	5-14 day suspension.	Separation.
12. Notorious misconduct off duty. (With regard to off-duty conduct, all employees have an obligation to conduct themselves so that no disgrace or disrepute will be visited on the Department of the Army.)	1-14 day suspension, if offense is minor. Separation for major offenses.	Separation.	
13. Failure to observe any written regulation or order prescribed by appropriate authority. a. Violation of administrative regulations where safety of persons is endangered, or funds or property is jeopardized.	1-5 day suspension or separation.	6-14 day suspension or separation.	Separation.

**Table 7-1**  
**Penalties for delinquency or misconduct<sup>1</sup>—Continued**

Offense	First offense	Second offense	Third offense
b. Violation of administrative regulations where safety of persons is not endangered or funds or property is not jeopardized.	Official written reprimand.	1–5 day suspension.	6–14 day suspension or separation.
c. Refusal to testify in a properly authorized inquiry or investigation conducted by representatives of the Department of the Army except where such refusal is based upon the grounds of self-incrimination.	1–5 day suspension or separation.	6–14 day suspension or separation.	Separation.
14. Immoral or indecent conduct.	3–5 day suspension or separation.		
15. Knowingly making false or malicious statements against other employees, supervisors, or officials with the intent to harm or destroy the reputation, authority, or official standing of those concerned.	Official written reprimand or 1–14 day suspension.	Separation.	
16. Transferring, selling or introducing intoxicants on government premises except where authorized. <sup>3</sup>	Official written reprimand or 1–3 day suspension.	4–6 day suspension.	7–14 day suspension or separation.
17. Off-duty misconduct of such major significance that the employee cannot fulfill his or her job responsibilities. Off-duty misconduct that has an adverse effect upon the Army. <sup>4</sup>	Official written reprimand to separation.	Separation.	
18. Unauthorized use of an official motor vehicle.	30-day suspension or separation.	Separation.	
19. Threatening or inflicting bodily harm, physical resistance to competent authority.	Official written reprimand to separation.	Suspension or separation.	

Notes:

<sup>1</sup> This table may be used as a general guide in imposing disciplinary action against NAF employees to assure like penalties for like offenses throughout the DA. This list of offenses and suggested penalties may not successfully meet the demands of all situations and therefore is to be considered as illustrative only. The fact that an offense is not listed in the above table does not mean that a penalty cannot be imposed if the offense is committed. If an offense is not listed in this table, a reasonable penalty can be determined through comparison with those listed. A prior offense of any type may form the basis for proposing an enhanced penalty. For example, a documented first offense of insubordination followed by a charge of AWOL could trigger the penalty for a second offense identified in the table of penalties.) Final decision as to the action to be taken will rest with the responsible administrative officials.

<sup>2</sup> It is the policy of the Army that an employee found to have engaged in theft, fraud, or other intentionally dishonest conduct will be considered for removal from NAF employment. Any lesser penalty will require justifiable, mitigating circumstances. It is the duty of all supervisors to ensure that this is implemented. This strong disciplinary posture is a necessary element in the Army's campaign against fraud, waste and abuse.

<sup>3</sup> Actions involving these offenses should be evaluated in consonance with the Alcohol and Drug Abuse Control Program.

<sup>4</sup> Removal is mandatory when US citizen employees in foreign areas commit serious offenses against host government laws that reflect unfavorably upon the US and/or affect the accomplishment of the Army mission.



## **Chapter 8**

### **Employee Grievances—General**

#### **8-1. Coverage**

Requests by an employee or by a group of employees for personal relief from matters of concern or dissatisfaction that are subject to the control of DA, will be processed in accordance with the requirements of this chapter. Included are requests for relief from personnel actions.

#### **8-2. Exclusions**

The following are matters excluded from coverage of this chapter. Grievances on these matters will not be accepted by the servicing CPAC/NAF-CPU:

- a.* Grievances covered by a negotiated agreement. The negotiated grievance procedure is the exclusive procedure available for resolving grievances that fall within the coverage of the collective bargaining agreement.
- b.* Actions taken under the provisions of chapter 11, pertaining to the security program.
- c.* Separation during the probationary period provided all procedural requirements have been met.
- d.* Separation from a FLX appointment (unless the separation is for BBA and the employee has been on the rolls of the NAFI for 3 continuous years).
- e.* Allegations of discrimination on the basis of race, age, color, religion, sex, disability, or national origin. These cases should be referred to the EEO Office.
- f.* Personnel actions voluntarily requested by the employee.
- g.* Granting or not granting an honorary or monetary award.
- h.* The content of published policy applicable to NAF employees.
- i.* A specific action required by an authority outside DA or any matter subject to final administrative review outside the HQDA.
- j.* Wage or salary rates or schedules established by appropriate authority.
- k.* Terminating a temporary promotion.
- l.* Separation from a RFT or RPT limited tenure appointment.
- m.* Nonselection from a referral list of properly certified candidates.
- n.* Warning of a proposed unsatisfactory performance rating.
- o.* Management decisions regarding budget, workload, organization, and mission that result in BBA.
- p.* Allegations of mismanagement when no form of personal relief to the employee is appropriate.
- q.* Employee performance ratings other than unsatisfactory (see para 6-10f(2)).
- r.* Release of information and records from Army files.
- s.* Reassignment to a position at the same rate of pay or grade/level and in the same appointment category.
- t.* Content of performance standards.
- u.* Separation for abandonment of position.
- v.* Separation of ODM employees upon withdrawal of their commanding officer's approval to work.
- w.* Any matter that has its own review or appeal procedure stated as part of its regulatory provisions.
- x.* Letters of reprimand.
- y.* Matters accepted by the Inspector General or Auditor General for review.
- z.* Any issue previously decided in an earlier grievance brought by the employee.

#### **8-3. NF and CC classification complaints**

*a.* NF and CC employees may grieve the assignment of their position to a particular pay band. Where levels within a band have been established, the assignment of a position to a particular level may be grieved.

*b.* Bargaining unit employees may use the grievance procedures in this Chapter for classification complaints about actions that do not result in a reduction of pay or payband. In accordance with 5 U.S.C. §7121, negotiated grievance procedures may be used only if the classification results in a pay or pay band reduction.

#### **8-4. Employee rights**

*a.* All employees will be treated fairly and equitably in all respects. Those who feel they have not been so treated have a right to present their grievances to appropriate management officials for prompt consideration and decision. This right may be exercised by an employee personally or through a personal representative. In exercising this right, the employee will be unimpeded and free from restraint, coercion, discrimination, or reprisal. Dissatisfactions and disagreements arise occasionally in any work situation; the filing of a grievance will not be construed as reflecting unfavorably on the quality of supervision or on the general management of an organization.

*b.* Grievances will be resolved or decided at the lowest practicable organizational level and in the shortest time possible.

c. Grievance of a BBA may only be made when the employee alleges that processes or regulations were not properly applied.

d. Consideration of a grievance must be expeditious, fair, thorough, and impartial. Lengthy delays in the resolution of a grievance may overshadow the original matter about which the grievant was dissatisfied, with an accompanying adverse effect on morale.

e. Upon request, grievants will be given information from official records related to their grievances; however, records will not be released if prohibited by law or regulation. Also, grievants will be given full access to relevant regulations and official directives. (When feasible, extracts or copies of these regulations and directives will be given to the grievant on request.)

f. Both the aggrieved and the designated representative may be present at any phase of the process and may review documentary evidence. Review of the documentary evidence or attendance at group meetings or interviews will not be permitted by any individual whose involvement is not required for resolution of the case.

g. A grievant may seek advice in resolving a grievance from a representative of an employee organization, any supervisor or management official, EEO counselors or officers or from any other individual who can provide guidance. The servicing CPAC/NAF-CPU will freely supply information on the grievance procedures, including information on the time limits, but CPAC/NAF-CPU personnel may not serve as the grievant's advocate. When an individual is grieving a disciplinary action, a personnel specialist, other than the one advising management on the matter, should be assigned to supply information to the grievant.

## **8-5. Representation**

a. A grievant may be accompanied, represented, and advised by a representative of choice. The representative's service must not result in a conflict or apparent conflict of interest or position, conflict with the priority needs of the service, or cause unreasonable cost to the NAFL. Similarly, supervisory personnel may not be represented by a representative of a labor organization. The commander may not designate a representative for an employee nor require any employee or individual to serve as a representative of another employee. Except as provided in para 8-6 below, all expenses of the grievant and representative must be borne by the grievant, the representative, or both.

b. Representatives must be designated in writing. The representative's name will be sent through the grievant's immediate supervisor to the servicing CPAC/NAF-CPU. Changes in representatives must be made in writing in the same manner. If the representative is a DA employee, the servicing CPAC/NAF-CPU should promptly provide the representative's supervisor a copy of the written designation.

c. The commander may disapprove a grievant's choice of representative at any time. The employee will be told, in writing, the specific reasons for the disapproval and how to obtain a review of such decision.

d. The representative must obey the same rules of conduct and procedures as the grievant. If classified information is involved, the representative must have the proper security clearance. If the representative does not, the grievant has the following choices:

- (1) Pick a representative who has the proper clearance
- (2) Forego representation.
- (3) Let the case proceed without the representative being allowed to challenge or otherwise have access to or comment on the classified information.

e. If the employee's choice of representative is disapproved, the employee may send a written challenge to the person who receives formal grievances. (See para 8-9.) The challenge must be sent within 7 calendar days of receiving the notice of disapproval. The challenge will state why the grievant believes he/she should be allowed the representative who was disapproved. The activity will have 7 calendar days after receiving the written challenge to try to resolve the matter to the grievant's satisfaction. If it cannot be resolved, the activity will send the written challenge, a copy of the notice of disapproval and other relevant material to the next higher level for resolution. The processing of the grievance will stop until a decision is made on the grievant's challenge.

## **8-6. Use of official time and resources**

a. The aggrieved employee and designated representative, if otherwise in an active duty status may use reasonable amounts of official time, subject to supervisory approval. The time allowed depends on the facts of the specific case. Official time may be used to:

- (1) Get advice on rights and privileges from official sources (for example, meet with a representative of the CPAC/NAF-CPU).
- (2) Get information on or assistance with the grievance from official sources (for example, get copies of witnesses' statements, etc).
- (3) Present grievances.

b. Official time will not be granted for preparing a grievance, organizing materials, writing, or typing it.

## **8-7. Discontinuance of consideration**

a. A grievance may be canceled at any time at the grievant's request. The request will be in writing and should state

briefly the reasons for the request. When a grievant requests that a grievance be canceled, a subsequent grievance on the same matter may not be filed.

*b.* Any unjustified delay or dilatory tactic on the part of the grievant will serve as a basis for closing out action on a grievance. Specifically, failure without reasonable basis to furnish requested information within specified time limits, or any other unjustifiable delay in the processing of the case, will justify closing the case and rendering a decision on the basis of the information available. Unjustified delay on the part of management will serve as basis for the employee to request that the grievance move to the next higher level.

*c.* If the grievant resigns, dies, or is separated before a decision is reached, action will be stopped and all interested parties will be notified promptly in writing by the servicing CPAC/NAF-CPU that the case is being closed without decision. A copy of this notification will be made a part of the case record. If a separation under chapters 6, 7, or 10 is involved, or a pay issue is involved in a grievance, the case will be processed to conclusion in the same manner as though the grievant had remained on the rolls.

*d.* When a grievance is terminated, the grievant will be informed of the reasons in writing, unless the grievant has been separated from the rolls voluntarily or unless the case is closed because of death.

#### **8-8. Grievance procedure-first stage**

*a.* The informal procedure must be completed before a grievance may progress to the formal grievance procedures. Exceptions are as follows:

(1) When management officials and the employee agree that the informal procedure would serve no useful purpose, it may be waived. For example, it may be waived if the employee and the supervisor have recently discussed the matters fully, but failed to reach a resolution. Since this action fulfilled the requirements for the first stage of the grievance procedure, it is unnecessary to repeat it. When management officials and the employee agree to waive the informal stage, management will document the reason for the waiver in the grievance file. The employee and a management official will sign the waiver.

(2) When the grievance is on a disciplinary action to which the grievant has already replied.

*b.* Processing grievance.

(1) The employee and representative (if any) will present the grievance to the employee's immediate supervisor or the lowest level management official who can grant the relief requested.

(2) The employee must present the grievance informally NLT 7 calendar days after the effective date of a BBA, 15 calendar days after the effective date of other personnel actions, or 15 calendar days after the date of the event for other matters. The fact that an employee only recently learned of an occurrence does not automatically guarantee that the employee's grievance will be considered timely. Grievances over continuing conditions may be submitted at any time.

(3) The supervisor or official to whom the grievance is presented will make every effort to resolve the matter promptly and fairly, to include requesting assistance from the next level of supervision if appropriate. A written response will be provided to the employee within 7 calendar days, summarizing the issue, the consideration given, and advising of the right to file a formal grievance within 7 calendar days if he or she is not satisfied. In the event that the supervisor fails to respond to the employee within 7 calendar days the employee may proceed to the second stage.

#### **8-9. Grievance procedures-second stage**

*a.* A formal written grievance will be submitted to the installation commander (or equivalent civilian). At HQDA or MACOM level the grievance will be submitted to the next higher official in the chain of command above the official who considered the grievance at the first (informal) stage. If the official to whom the grievance would ordinarily be submitted is a party to the issue, it will be submitted to the next higher level in the chain of command.

*b.* Upon receipt of the grievance, the deciding official may resolve the grievance on the basis of the record. If further information is required, a disinterested third party may be designated to review the facts and make a recommendation to the deciding official. This fact finder may not be a subordinate of an official involved in the grievance, unless that official is the installation commander. In more complex cases the deciding official may elect to purchase the services of a professional mediator.

*c.* The deciding official may approve and implement the recommendation of the fact finder, or determine another resolution. A written decision will be provided to the employee within 45 calendar days of receipt of the grievance. If the fact-finding process may be lengthy the employee will be advised of the expected date of decision. Failure to render a decision within 90 calendar days is a basis for the employee to request forwarding the grievance to the next higher level. The decision shall summarize the grievance and the consideration given. The employee will be advised that, except as provided in para 8-10 below, the decision is final and no further review of the same grievance is authorized.

#### **8-10. Third stage review**

*a.* A RFT or RPT employee who has been affected by a BBA, may appeal within 15 calendar days of the formal decision, by requesting a review of the written grievance record and a decision by the next higher official in the chain

of command at the MACOM (or equivalent) level. At HQDA or MACOM level the third stage review will be conducted by the next higher official in the chain of command above the official who considered the grievance at the second stage.

*b.* The designated official considering the case at this third stage of review will make a decision based on the written record and advise the employee within 30 calendar days of receipt of the request for review. There is no further review or appeal above this level.

### **8–11. Grievance file**

A grievance file will be established and maintained by the servicing CPAC/NAF–CPU and must contain all documents related to the grievance.

### **8–12. Regulatory interpretation**

*a.* When the only issue in a grievance involves the interpretation of a regulation or policy, the proponent of the regulation or policy may be requested to provide interpretation and decision. The activity will obtain the employee's written concurrence to resolve the grievance this way.

*b.* The activity will provide to the servicing CPAC/NAF–CPU a record of facts on the case. This record will cite the regulation or policy involved and will include a copy of the grievance and other supporting material.

*c.* The employee and any representative will be given 7 calendar days to review this material and submit written comments to the servicing CPAC/NAF–CPU for inclusion as a part of the record.

*d.* The grievance file will be sent to the proponent of the regulation or policy for interpretation, and the servicing CPAC/NAF–CPU will also send a copy of the file to the command levels in between. The proponent will inform the employee and activity of its interpretation and that its decision is final.

### **8–13. Issues previously decided**

If an employee attempts to grieve an issue that was decided in an earlier grievance by the same employee, the servicing CPAC/NAF–CPU will cite the previous grievance decision and reject the grievance.

## **Chapter 9 Incentive Awards**

### **Section I General**

#### **9–1. Principles**

*a.* Employees may be recognized individually or in groups for performance, or for suggestions.

*b.* The incentive awards program will be administered as an integral part of the total NAF personnel administration program and coordinated to the fullest extent possible with the performance evaluation, training, promotion, cost reduction, safety, health, and management improvement programs of NAFIs. All operating budgets should include provisions for incentive awards. Although cash awards can and should be tied to activity profitability where appropriate, it is counterproductive to prohibit awards within a non-profitable activity, since an active incentive awards program is a proven productivity motivator.

*c.* Action will be taken on a continuing basis to promote full understanding of and participation in the incentive awards program by both management and the servicing CPAC/NAF–CPU.

*d.* One honorary award and one monetary award may be granted to an employee for the same special act or service, providing the criteria for each award is met.

*e.* When disciplinary actions are pending on employees for whom performance awards have been recommended, all action on the awards will be suspended pending final determination on the disciplinary action.

*f.* Only one sustained superior performance (SSP) award based on performance of assigned duties may be granted an employee for any 12-month period of service. Pay band employees, both NF and CC, may receive a cash award and a pay adjustment based on performance.

*g.* NAF employees may be nominated on DA Form 1256 (Incentive Award Nomination and Approval) for awards listed in AR 672–20, in accordance with the procedures in that regulation.

*h.* DA Form 5167 is required for any award authorized by this regulation. One copy signed by the nominating official, supervisor, and approving official (one level above the nominating official) will be placed on the right side in the OPF, and one copy will be sent to the payroll office. The effective date will be the beginning of the first full pay period following receipt by the CPAC/NAF–CPU of a properly completed and approved DA Form 5167. When the commander is also the nominating official, higher level approval is not required unless the amount of the award exceeds the commander's delegated authority.

i. In accordance with IRS requirements, monetary incentive awards are considered a part of gross salary subject to income tax (Federal and State), FICA, retirement and 401(k) deductions.

## **9-2. Funding**

- a. The cost of employee monetary Incentive Awards will be paid by the employing NAFI.
- b. Suggestion awards will be financed as follows:
  - (1) By the benefiting NAFI when the approved suggestion applies only to that NAFI.
  - (2) By the benefiting NAFIs on a prorated basis when an approved suggestion applies to two or more NAFIs on a single installation.
  - (3) By the MACOM when an approved suggestion applies to all NAFIs within a MACOM.
  - (4) By the Army MWR Fund (AMWRF) when approved suggestions have Army-wide application.
- c. Suggestions will be coordinated with the NAFIs benefiting from the suggestion and responsible for funding or sharing the funding, prior to final approval of the award.

## **Section II**

### **Special Achievement Awards**

## **9-3. Special achievement awards**

- a. Awards based on sustained superior performance (SSP) – A certificate of commendation will be issued for SSP. A cash award may be authorized for FWS employees. Pay band employees may be awarded a pay adjustment and/or a cash award.
- b. The following requirements apply in authorizing a special achievement award based on SSP.
  - (1) The award must be in recognition of a 12-month period of continuous service sufficiently superior to deserve special recognition. (For seasonal employees, time in a non-duty status will apply toward completion of the 12-month period.)
  - (2) The amount of the monetary award will be recommended by the supervisor to the designated approval authority. The award will not exceed 15 percent of the annual salary for an outstanding performance award, or 5 percent for an excellent performance award.
  - (3) The performance of the employee must have been at least satisfactory in every respect and must have clearly exceeded the performance standards for base level employees. Senior level employees must exceed the performance standards and the goals and objectives established for them.
  - (4) Nomination for or approval of a special achievement award is not authorized when a disciplinary action is pending.
  - (5) The recommendation for an incentive award must provide justification in writing. The servicing CPAC/NAF-CPU will provide technical review of the approved DA Form 5167 for regulatory compliance.

## **9-4. Awards based on special acts or services**

- a. *Special acts or services.* Certificates of commendation and cash, time off or merchandise awards may be issued as outlined in paragraph 9-1d above. The amount of any cash award will depend on the significance of the contribution. The recommendation for the award must be submitted by the supervisor in writing to the designated approval authority and will include justification for granting the award.
- b. *On-the-spot cash award.*
  - (1) The on-the-spot award is designed for spontaneity, and to reward employees for acts or services at a less significant level than that required for a special act of service monetary award. This award must be for actions clearly recognizable as beyond what should normally be expected of the employee.
  - (2) On-the-spot cash awards of up to \$250 may be authorized by the activity manager. Awards of \$251 to \$500 (the maximum) may be authorized by the fund manager.
  - (3) On-the-spot cash awards will be processed as close in time to the act or service being recognized as practicable. The approved DA Form 5167 constitutes adequate documentation as a pay voucher. Local accounting services will immediately issue payment based on the approved DA Form 5167. Commanders serviced by NFS must follow established procedures required for payment of the award.
  - (4) Employees may receive more than one on-the-spot award, but the maximum combined total is \$2,000.00 in any 12-month period. An on-the-spot cash award may not be authorized for the same accomplishments during the same period.

## **9-5. Length of service awards**

Length of service emblems (pins) and certificates are authorized in accordance with AR 672-20, chapter 7. All Federal, Military, and NAF service will be creditable; however, the last full year of service must have been as a NAF civilian employee of DA.

## 9-6. Suggestion awards - general

The Army Ideas for Excellence Program (AR 5-17) is applicable to NAF employees. Suggestions should be submitted according to instructions as described in that regulation. NAF employees are not eligible for cash awards funded by APF.

## 9-7. Suggestion awards

a. Awards paid from NAF may be authorized for suggestions on the basis of estimated or actual savings resulting to NAFIs from the implementation of the suggestion. The amounts of such awards are as follows:

- (1) First-year savings, \$250 — Award: \$25.
- (2) First-year savings, \$250–\$1,000 — Award: \$25 for the first \$250, plus \$5 for each additional \$50 or fraction thereof.
- (3) First-year savings, \$1,000–\$10,000 — Award: \$100 for the first \$1,000 in benefits, plus \$10 for each additional \$100 or fraction thereof.

b. Awards paid by NAF may also be authorized for adopted suggestions which result in intangible benefits that cannot be estimated in terms of increased productivity or in actual cash savings. The amount of such awards will be based on the value of the suggestions and extent of their application. Table 9-1 below may be used as a guide for establishing the amount of the award.

**Table 9-1**  
**Guide for intangible benefits suggestion awards**

Potential Value	Extent of Application <sup>1</sup>			
	Limited	Extended	Broad	General
Moderate	25–50	50–100	100–200	200–400
Substantial	50–100	100–200	200–400	400–1,000
High	100–200	200–400	400–1,000	1,000–2,500
Exceptional	200–400	400–1,000	1,000–2,500	2,500–5,000

Notes:

<sup>1</sup> The maximum award is \$5,000. Limited application will be interpreted to mean the suggestion's application is limited to within an activity on an installation; extended application means it affects more than one activity on an installation; broad application is MACOM-wide, and general application is Army-wide.

## 9-8. Other incentives

a. *Revenue Sharing.* Commanders may establish a revenue sharing program that includes all regular NAF employees in the activity. A copy of the Revenue Sharing Program will be provided to HQDA (DAPE-CP-NAF).

b. *Management Incentives.* Commanders may establish management incentive plans for category “C” activity managers (see AR 215-1). To be eligible a manager must have full program responsibility, including manpower and budget authority, and must maintain a satisfactory level of performance throughout the specific period of the plan. Quantifiable financial goals, a specific period of time covered, and the monetary award for attainment of the goals must be established prior to implementation of the plan. Management incentive awards may not exceed \$25,000 in a 12-month period. A copy of the management incentive plan will be placed on the left side of employee's OPF. A properly executed DA Form 5167 is required each time management incentives are to be paid.

c. *Alternative incentive.* Commanders may authorize an alternative to the traditional cash award for special acts or services. Merchandise such as television sets, VCRs, jewelry, travel packages, etc. may be substituted for the cash award. The cash value of the merchandise will be entered on DA Form 5167 and is considered income, subject to income tax and FICA.

d. *Time-off awards.* Commanders may establish a time-off award program. Time-off with no charge to leave may be authorized in lieu of the traditional cash award for a special act or service. The DA Form 5167 will indicate the number of hours approved. At the time the hours are used the time card will indicate “Time-off award” in the remarks section, and hours used will be recorded as administrative leave. Employees may receive more than one time-off award. The maximum for a single award is 40 hours. The maximum for a 12-month period is 80 hours. The time-off award must be scheduled and used within one year of the approval date. A timeoff award may not be converted to a cash payment under any circumstances.

## **Chapter 10**

### **Business Based Actions**

#### **10-1. Coverage**

This chapter provides methods for effecting workforce reductions and realignments that are necessary to conduct operations in an effective manner. This chapter applies to all Regular Full-Time (RFT) and Regular Part Time (RPT) employees. It also applies to Flexible (FLX) employees who have been employed by the NAFI effecting the BBA for 3 continuous years, except that FLX employees may not be furloughed.

#### **10-2. Advance planning and advance information**

*a.* Reductions and realignments should be given top management attention to decrease adverse effects on employees and on the future effectiveness of the activity involved. Careful planning is necessary to lessen the impact, prepare employees, and to avoid administrative problems caused by hasty action. Good employer/employee relationships require that management show concern for the employees' problems, morale and economic security. Employees should be kept informed of plans that will affect them. In no case will business based actions (BBA) be used to separate, demote, or reduce pay or hours for inadequate performance, or for disciplinary reasons.

*b.* In planning to reduce or realign the workforce, it is important to consider each of the various actions that can be taken. For example, in order to meet a need to reduce the scope of an operation, a reduction in hours of work for all employees may be more acceptable than the separation of some employees. Commanders may request Voluntary Early Retirement Authority (VERA) or approve Discontinued Service Retirement (DSR) authority for eligible employees affected by BBA. The tools available to management are sufficiently diverse to allow the effects of reductions to be broadly spread, thereby minimizing the impact on the workforce.

*c.* All reductions and realignment actions which will result in the reduction or relocation of 50 or more RFT or RPT employees require that written notification be furnished through command channels to HQDA (DAPE-CP-NAF) not less than 30 days prior to implementation. Guidance on the preparation of submissions is in AR 5-10.

*d.* All employees in the activity which may be affected will be provided initial information simultaneously. This may be done in writing. The written notification should provide general information not specific to identified positions. Employees should not perceive the notice as an official BBA proposal. A group meeting may also be helpful, especially one in which employees may ask questions and receive answers. Labor organizations that have exclusive recognition will be consulted regarding reductions prior to the initial announcement to employees.

#### **10-3. Types of BBA**

*a.* BBA are non-disciplinary, management-initiated actions taken to adjust personnel resources with a minimum of disruption to operations. While some NAFI activities are not businesses, they still must be staffed in the most economical manner consistent with maximum efficiency.

*b.* BBA include:

- (1) Reduction in pay rate (applicable only to NF employees).
- (2) Change in employment category.
- (3) Furlough of a regular employee for eight calendar days or more.
- (4) Separation.

#### **10-4. Administration**

*a.* When it becomes necessary to reduce or realign the workforce, the head of the activity will obtain the concurrence of the next higher level (or a specified official if required by local policy) prior to initiating any actions.

*b.* The determination of positions to be affected, and the type of personnel actions to be taken with respect to each of the employees, will be made by the head of the activity. Such decisions will consider the cause of the reduction or realignment, whether it is a temporary or permanent situation, the importance to the activity of the various functions, and the changed mission or organization.

*c.* In some cases, identification of specific positions or functions may be sufficient to determine which employees will be affected. However, in those cases in which more than one employee in the same employment category is performing the functions to be impacted, determination of the specific employees to be affected will be based on factors such as employee knowledge, skill, and ability as demonstrated through performance. Employees must be ranked to determine the order in which they will be affected. The ranking process must include performance and seniority, although other factors such as job related training and formal education may be included. Performance may be the primary criterion. In determining ranking, the employee's performance ratings for the most recent two years must be considered as a minimum. In the absence of documented performance ratings, a satisfactory rating will be presumed.

*d.* Efforts will be made by the servicing CPAC/NAF-CPU to find positions for employees separated from their positions. If they cannot be placed in other positions they will be given assistance in finding positions through the installation Army Career Alumni Program Office and the USACFSC Central Referral Program.

e. Employees have a right to grieve within 7 calendar days after the effective date of the BBA if they believe that regulations and procedures were not properly applied. An employee may not grieve the management decision to conduct a BBA.

#### **10-5. Transfer of function**

a. A transfer of function is the transfer of a continuing function from one DoD NAFI and its addition to one or more other DoD NAFIs, or the movement of the function to another commuting area, except when the function involved is virtually identical to functions already being performed in the other NAFI or commuting area. A function is transferred when it disappears or is discontinued at one location and appears in identifiable form at another location.

b. When one or more functions of a NAFI are transferred, RFT and RPT employees identified with the transferring function will be transferred with the function if the alternative is separation or demotion. If they decline to move, they may be separated without prejudice to re-employment. A written offer of transfer will be made at least 30 calendar days prior to the effective date of the transfer. Each employee who declines to move with the function being transferred must submit a written declination of the offer of transfer within 15 calendar days of receipt of the offer.

#### **10-6. Dissolution of a NAFI**

a. When it has been determined that a NAFI will be dissolved, with all its functions and positions to be abolished, the usual BBA procedures will be applied except that a minimum of 60 days advance notice of separation will be provided.

b. The servicing CPAC/NAF-CPU will process the personnel actions. If the installation is deactivated before all the NAFI personnel actions have been processed, the commander of the next higher echelon in the chain of command (for example, major subordinate command, major command, or HQDA staff office) will complete the processing of the personnel actions.

#### **10-7. Tenure following active military duty**

a. Regular employees restored to NAFI positions through exercise of statutory rights following active military duty are entitled to the retention priorities specified below.

(1) Employees who are entitled to be retained for 1 year after exercising their reemployment rights under, USERRA, Title 38, Chapter 43 as amended, will be given priority in retention over other employees until the expiration of the 1-year period. This protects employee whose period of uniformed service was more than 180 days.

(2) Employees who are entitled to be retained for 6 months after exercising their reemployment rights under USERRA, as amended, will be given retention priority over other employees until the expiration of the 6-month period. This protects employees whose period of uniformed service was more than 30 days but less than 181 days.

b. An employee with retention priority based on military service for whom a BBA action would otherwise be effected will be by passed in terms of BBA separation and will not be affected until completion of the statutory retention period. If, however, the employing NAFI is dissolved during the retention period, the employee will be separated.

#### **10-8. Effecting BBA**

a. Upon identification of the specific employees to be affected, the official initiating the action will record the basis for the actions to be taken. This record will include:

- (1) The business or operational conditions that necessitated the reduction or realignment.
- (2) The basis used for determining which employees are impacted.
- (3) The names of all employees included in the BBA and the actions taken on each.

b. Employees with retention priority based on military service will be by-passed until completion of the mandatory retention period. If the situation is such that they cannot be retained in their same position, they will be placed in a position of like seniority and pay for which they are qualified.

c. In overseas areas, retention is authorized when necessary to complete transportation arrangements or because the employee or a family member is incapacitated and cannot travel.

#### **10-9. Notices and notice periods**

a. Written notice will be provided to all affected employees. Notices will not be issued or made effective between 15 December and 3 January. Employees not in a duty status at time of notification will be informed by means of certified mail.

b. The notice must clearly and specifically inform the employee of the action to be taken and the reasons for the action. As a minimum the notice must:

(1) State the action being taken, including position title, series, grade or pay band level and rate of pay, when applicable.

(2) State the reason why the action was necessary.



(3) Advise of the right to review the records used to determine employees to be affected. (Applicable only when more than one employee occupies an affected position.)

(4) If the action is separation, include the statement: "This action is non-disciplinary and does not preclude reemployment."

(5) Advise of severance pay entitlement when applicable.

(6) Advise FWS employees of grade and pay retention eligibility if applicable.

(7) Advise on loss of retirement, savings plan, and insurance participation benefits, including the opportunity for extension of health insurance, when applicable.

(8) If the action is a separation, provide information on unemployment compensation, the reemployment priority list (RPL) or other applicable priority placement program.

(9) If the action is separation, provide information on eligibility for Civil Service positions for one year from date of separation under the DoD/OPM Interchange Agreement, eligibility for Discontinued Service Retirement and other Civilian Assistance and Re-employment (CARE) benefits applicable.

(10) Advise of employee's right to grieve and the deadline for doing so.

c. Except for separations, all actions requiring a DA Form 3434 will be made effective on the first day of a pay period. The length of the notice period is determined by the action being taken and the appointment category of the employee, as follows:

(1) *Separation.*

(a) RFT and RPT employees will receive a minimum 30-calendar day advance written notice.

(b) FLX employees who have been on the rolls over 3 years will receive a minimum of 7 calendar days advance written notice.

(2) *Reduction in pay rate.* This action may only be taken on NF employees and requires a minimum 30 calendar days advance written notice. Reduction in pay rate does not require a change in duties.

(3) *Change in employment category.* An advance minimum written notice of 30 calendar days will be given when a RFT employee is changed to RPT or FLX, when a RPT employee is changed to FLX, or when a RFT or RPT employee is changed to seasonal.

(4) *Furlough.* Furlough is a non-duty, non-pay status and is appropriate only for RFT and RPT employees. During a furlough period no type of leave may be used. Advance written notice will be provided that is equal to the length of the furlough up to a maximum of 30 calendar days. For furloughs in excess of 30 days, a 30-day advance notice is required.

## **10-10. Placement of employees**

The servicing CPAC/NAF-CPU will attempt to place the employee in any vacant position at the same or lower level/grade for which qualified. If the employee accepts such an offer, placement may be made non-competitively. There is no authority to displace another employee.

## **10-11. Records**

The record outlined in 10-8a above, together with copies of employee notifications, will be retained by the employing activity for a period of 1 year. When a NAFI is dissolved, the record and notifications will be retained by the commander in the next higher echelon in the chain of command for a period of one year.

## **10-12. Reemployment priority list**

a. Each installation that has separated RFT or RPT employees by BBA, will retain such employees' names on a reemployment priority list until re-employed but not longer than one year from the date of separation.

b. When the NAFI is filling a vacancy by other than detail or position change, an employee on the RPL will be offered a position when a vacancy occurs in the NAF activity from which the individual was separated if the position is:

(1) In the same or lower employment category as the position from which separated, and

(2) In the same or lower grade or pay level as the position from which separated, and

(3) In a position that has substantially the same duties as the position from which separated  
(In OCONUS areas, the requirement to offer reemployment does not apply to an employee who has left the area.) If more than one person is eligible, the one with the earliest date of separation will be offered the position. If the separation dates are the same, the employee with the higher performance rating will be offered the position. Reinstatement under this paragraph is not subject to competitive procedures.

c. An employee separated from a RFT position will be deleted from the reemployment priority list when he or she accepts or declines a RFT position with a pay rate the same or higher than that of the position from which separated. Under similar criteria, a RPT employee will be removed from the list when he or she accepts or declines a RFT or RPT position with a pay rate at the same or higher level.

d. A person on the list will also be offered priority consideration for positions in other DoD NAFIs in the

commuting area if the vacancy is being filled on a competitive basis. Information on employees to be separated will be shared with other DoD activities in the commuting area.

e. Use of the Reemployment Priority List is optional for OCONUS MACOMs that have established a MACOM-wide priority placement program that offers mandatory placement of RFT and RPT employees separated by BBA.

## **Chapter 11**

### **Civilian Applicant and Employee Security Program**

#### **11-1. Program goal**

The Civilian Applicant and Employee Security Program is designed to ensure the meeting of investigative requirements for NAF employment, the evaluation of investigation reports, and the making of determinations in the case of applicants as to whether the employment or retention in employment of the individual concerned is consistent with the interests of national security.

#### **11-2. Coverage**

All NAF employees and applicants for NAF employment will be subject to the investigative requirements and the standards and criteria prescribed in AR 380-67. A background investigation is required on all employees in sensitive positions or non-sensitive positions of public trust. This investigation may be required before employment or after the employee reports for duty depending upon the urgency of the fill and the sensitivity of the position. The results of this investigation will be a determining factor for appointment or continued employment. Employment candidates or applicants will be made totally aware of the investigative requirements for the position being filled. This requirement will be made a part of the vacancy announcement, which will clearly spell out the investigation requirements for the vacancy being filled. The statement that the final appointment for this position is contingent upon successfully passing this investigation must be on the vacancy announcement. Also, upon request from an applicant the investigation forms package will be provided. This will allow the potential candidate to be aware of the information required and to decide if they wish to continue the application process. Additionally, the investigative package will be provided to the employee at the time of selection and acceptance of an official job offer. This will allow the employee to gather the required information and submit the investigative package in a timely manner.

#### **11-3. Suspension and removal**

The use of the suspension and removal procedures prescribed in AR 380-67 will be limited to cases in which the interest of national security is involved. Maximum use shall be made of the normal procedures prescribed by this regulation where such procedures are adequate and appropriate. When an investigation discloses derogatory information that reflects on the individual's suitability for retention in employment, is of such nature as to warrant suspension or removal, and can be disclosed to the employee, the action will be taken under the normal suspension or removal procedures prescribed in this regulation.

#### **11-4. Reassignment**

Nothing contained in this chapter shall be deemed to limit or affect the responsibility and authority of a commander to reassign persons under their respective jurisdiction to non-sensitive positions when in the interests of national security.

## **Chapter 12**

### **Employee Development**

#### **12-1. Concept**

*a.* To provide opportunities for employees to develop and advance within available Army-wide and local career field management, a Civilian Leader Development Common Core model has been developed that identifies essential training for all the civilian leaders of America's Army from intern (management trainee) through the executive level (NF-6). This civilian leadership training is progressive and sequential and is intended to parallel the institutional training pillar of the officer development model. Army will also provide training to help ensure maximum efficiency of NAF employees in the performance of their duties, to institute career and executive programs, and to encourage employees in their efforts for self improvement. Training needs will be reviewed continuously to meet present and anticipated needs.

*b.* DA facilities will be used to the maximum extent possible for the training and development of NAF employees.

*c.* Commander, USACFSC, serves as personnel proponent for Career Field 51, The Morale, Welfare and Recreation Workforce, as defined in AR 600-3. As proponent, the commander is responsible for career development of the MWR workforce based on the eight personnel life-cycle functions.

#### **12-2. Administration**

*a.* Training-related management functions include, but are not necessarily limited to, the following:

(1) Developing individual training and professional development plan in accordance with the Army Civilian Training, Education and Development System (ACTEDS) Plan for Career Field 51. The plan describes the knowledge, skills, and abilities needed for key positions and outlines the training necessary to accomplish the competencies. It identifies mission essential mandatory training that the employee must have to support and/or achieve an acceptable performance level. Successful completion of Priority I training within the specified time period will be considered a factor in determining whether an employee and/or supervisor has satisfactorily completed the required probation period. Equivalency credit for mandatory, Priority II MWR functional requirements may be granted by the proponent for Career Field 51 (MWR) on a case by case basis.

(2) Scheduling of time and programming of resources to support individual plans.

(3) Monitoring to ensure that plans are fulfilled.

(4) Assigning duties and responsibilities that reinforce training received, and conducting on-the-job or cross-training programs to supplement formal training.

(5) Ensuring that subordinates include formal training in their individual development plan.

(6) Identifying other requirements and providing for general, unique, or specialized training or experience in addition to that prescribed in plans.

*b.* The Career Field 51 (MWR) Personnel Proponent will manage and administer this program. The CPAC/NAF-CPU will provide consulting on an as needed basis.

#### **12-3. Funding**

*a.* Each NAFI is responsible for providing the funds for meeting the training needs of personnel employed by the NAFI. This does not preclude the use of command funds for command-wide training programs.

*b.* RFT employees may be reimbursed for the cost of approved educational courses taken during off-duty time, including required books and materials. The course must be directly related to the employee's current duties and must be approved in advance by the head of the employing NAFI. Installation commanders will set local guidelines for such training.

*c.* Mandatory training which is considered mission essential, identified in the ACTEDS Plan for Career Field 51 (MWR), and which the employee must have to support and/or achieve an acceptable performance level, is centrally funded by USACFSC.

*d.* Newly appointed NAF supervisors must complete the following two-phase training program within twelve months after assignment to their first supervisory position:

(1) Supervisory Development Course. This may be locally developed and provided at the installation duty site.

(2) Leadership Education and Development (LEAD) Course.

*e.* NAF supervisors and managers are required to participate in the Civilian Leadership Training, Common Core courses and MWR functional training as described in ACTEDS for Career Field 51 (MWR).

## **Chapter 13**

### **Labor Management Relations**

#### **13–1. Administration**

Labor management relations programs relating to DA NAF employees will be administered in accordance with DoD 1400.25–M, Chapter 700, Subchapter 711, Labor Management Relations, and this regulation. The Assistant G-1 for Civilian Personnel Policy is the representative for the Secretary of the Army on all labor relations issues elevated to HQDA.

#### **13–2. Cost containment**

Increased costs resulting from any NAFI's collective bargaining agreement will not be involuntarily shared by other NAFIs.

#### **13–3. Extension of negotiated provisions**

*a.* Non-standard provisions covering bargaining unit employees may be extended to cover non-bargaining unit employees when—

- (1) The provision provides a greater benefit than provided by existing Army regulations.
- (2) Failure to extend the provision would cause financial or administrative hardship to the NAFI.
- (3) The extension of the benefit will not create the appearance of a conflict of interest.

*b.* Requests to extend negotiated provisions to non-bargaining unit employees will be submitted through the chain-of-command to HQDA (DAPE–CP–NAF) for approval. Requests are required whenever granting a non-standard benefit that would result in additional costs. Such provisions will not be extended prior to approval.

## **Chapter 14**

### **Unemployment Compensation**

#### **Section I**

##### **General**

#### **14–1. Coverage**

Civilian employees of NAFIs and military personnel employed voluntarily during off-duty hours may be considered as having rendered "Federal service" within the meaning of 5 USC 8501–8508, entitling them to unemployment benefits.

#### **14–2. Information coordination**

*a.* The Program Manager will ensure that noncompliance cases forwarded by HQDA are expeditiously handled and monitored to preclude further delay.

*b.* The servicing payroll office will provide required reports to the State employment security agencies and the Secretary of Labor to determine employees' eligibility for unemployment compensation.

*c.* The NAFI manager will ensure that State eligibility determinations were properly made and benefits were authorized only for eligible employees. When former employees appear to be granted benefits inappropriately, appeals will be filed in accordance with paragraph 14–5.

#### **14–3. Notice to separated employees**

*a.* The servicing CPAC/NAF–CPU will—

- (1) Inform employees of the provisions of the unemployment compensation program when effecting separation.
- (2) Provide a copy of SF Form 8 to each employee whose services are terminated for any reason or placed in a furlough status for a period of 7 or more consecutive calendar days. Supplies of SF Form 8 are available through normal publications supply channels. The address insertion on the SF Form 8 will be completed and must reflect on the top line "NONAPPROPRIATED FUND ACTIVITY–ARMY–425" followed by the complete mailing address of the payroll office maintaining the payroll records.

*b.* In overseas areas, a SF Form 8 will be prepared and issued only to US citizen employees under the conditions specified in "a" above.

#### **14–4. Request for wage and separation information**

Upon receipt of an application for unemployment compensation from a former NAF employee, the State agency will submit a Form ES-931 (Request for Wage and Separation Information). If the form is received by the servicing CPAC/NAF–CPU, it will be forwarded without delay to the appropriate payroll office. The payroll office will provide the State Unemployment Compensation Agency a salary history for the employee and any information concerning the

reasons for the separation. In the event circumstances exist that might preclude payment of unemployment compensation to a separated FLX employee, the personnel office will note on the payroll copy of the separation DA Form 3434: "For information on this action, contact (name and telephone number of the individual who can provide information on the action)."

#### **14-5. Appeals**

State employment security laws provide for administrative appeals from State agency determinations. Appeals may be made by the claimant or the employer.

- a.* An employer may file an appeal when—
  - (1) The State determination challenges the finality of the employer's finding;
  - (2) The State agency appears to have misinterpreted or disregarded the employer's findings; or
  - (3) The employer believes that as a result of legal review the determination is not in accordance with the provisions of the State law.
- b.* In those cases where an appeal has been initiated, the employer upon notice of hearing, may appear and present oral argument. In the event the employer does not desire to appear at a hearing to present oral arguments, written argument may be presented to be included in the record. Such written argument should be submitted in sufficient time to reach the appellate authority before the date of the hearing.
- c.* The NAFI will coordinate with the servicing legal office as to the applicable State procedures and before initiating an appeal and presenting oral or written argument. When an appeal is initiated by a NAFI or by a former civilian employee thereof, any argument of the NAFI considered necessary in the appeal will be in writing unless the circumstances of the case are so exceptional as to demand oral argument. The commander, after consultation with the servicing legal office, may authorize oral argument. A judge advocate officer or legal advisor from the servicing legal office may be detailed to present the oral argument to the State appellate authority. Expenses for travel of APF personnel in representing the NAFI will be paid from APF.

### **Section II Reports**

#### **14-6. Concept**

DA Form 1599 (Initial Listing of Nonappropriated Funds Instrumentalities) and DA Form 1600 (Changed Listing of Nonappropriated Fund Instrumentalities) are designed to furnish the individual State agencies and the DOL with employment and payroll information needed in preparing workload and benefit cost estimates for appropriation requirements. It is important that these forms be prepared in an accurate, complete, and timely manner. The information provided to the various State agencies through the submission of these forms is compiled and forwarded to the US DOL. These data provide employment and wage statistics and have a direct influence on economic and fiscal policies. The payroll office is required to report quarterly to the Department of Labor (DOL), Bureau of Labor Statistics (BLS) the monthly employment and quarterly payroll. Reporting on magnetic media is permitted as provided by DOL/BLS. This report and the DA Form 1599 NAFI will be paid from APF.

#### **14-7. General report instructions**

These reports will be submitted on each NAFI at military installations located in the US, Puerto Rico, and the Virgin Islands.

- a.* An initial listing of NAFIs was submitted by installations in 1978 upon initiation of the reporting requirement. An initial report is therefore only required upon activation or assumption of a new NAFI. The report will be prepared by the CPAC/NAF-CPU on DA Form 1599. The original of the listing is mailed to the appropriate State employment agency, the duplicate copy to the responsible major command, and the triplicate copy will be retained in the NAFI file.
- b.* Changed listing of NAFIs. A revised listing will be prepared by the CPAC/NAF-CPU in triplicate using DA Form 1600 whenever organizational changes are made which necessitate changes in the original listing, such as the activation, deactivation, or redesignation of a NAFI.

## **Chapter 15**

### **Employee Benefits**

#### **Section I**

##### **General**

##### **15-1. Eligibility to participate**

*a.* Regular full and part-time Army NAF employees of US Army NAFIs worldwide, except off-duty military and those employed in funds excluded in AR 215-1, paragraph 1-6, are eligible to participate in NAFI employee benefit programs. This includes NAF employees of the Department of Defense and other agencies for which the Army has executive agent responsibilities, including the Defense Civilian Personnel Management Service, Defense Finance and Accounting Service, Defense Logistics Agency, Defense Mapping Agency, Defense Intelligence Agency, National Security Agency and the DoD Concessions Committee. Also eligible are NAF employees of the post restaurants, dependent school lunch programs and civilian welfare funds controlled by the board of directors, Army and Air Force Civilian Welfare Fund, civilian marksmanship employees and certain other affiliated personnel.

*b.* As to retirement coverage elections only, civilian employees (NAF or APF) affected by PL 101-508, Act of 1990, as amended by PL 104-106, section 1043.

##### **15-2. Interpretation**

*a.* Where changes to this regulation make the provisions of the applicable plan document inconsistent with Army policy, the plan document shall govern. Upon discovery of any such inconsistency, CFSC shall act promptly to either amend the plan to bring it into conformity with policy, or seek a waiver to the applicable policy or regulatory provision.

*b.* Requests for interpretation of this chapter should be directed through command channels to Deputy Chief of Staff, G-1 ATTN: DAPE-CP-NAF.

*c.* Comments concerning administration of the benefits programs will be submitted in writing to the Commander, CFSC ATTN: CFSC-HRB.

*d.* All contract provisions relating to the group life insurance plan are in the master group insurance contract on file with CFSC (CFSC-HRB).

*e.* All contract provisions relating to the group medical insurance plan are in the master contract on file with the DoD NAF Personnel Policy Office.

##### **15-3. Program manager**

The Benefits Program Manager (CFSC-HRB) administers the program for the Commander, CFSC.

#### **Section II**

##### **Group Medical, Dental and Life Insurance Plans**

##### **15-4. General**

*a.* The DoD NAF Health Benefits Plan (HBP) is designed to provide medical and dental insurance benefits at a moderate cost to the employer and employee on a shared basis. Life insurance benefits are provided by the U.S Army NAF Group Insurance Plan.

*b.* Benefits are as follows:

- (1) Life insurance, accidental death and dismemberment benefits, and family member life insurance benefits.
- (2) Life insurance for retired employees.
- (3) Medical insurance benefits of the DoD NAF HBP and, where offered, health maintenance organization (HMO).
- (4) Dental insurance.
- (5) Employee and family members temporary continuation coverage for medical and dental benefits.
- (6) Medical and dental insurance for retired employees.

##### **15-5. Plans**

*a.* Employees may elect to participate in—

- (1) Group medical or HMO medical insurance.
- (2) Medical insurance and dental insurance.
- (3) Medical insurance, dental insurance, and group life insurance.
- (4) Group life and medical insurance or HMO.
- (5) Group life insurance. Subject to plan minimums, employees may elect:
  - (a) One times their basic annual salary;
  - (b) Two times their basic annual salary; or

- (c) One or two times their basic annual salary plus optional life insurance up to twice the basic life insurance amount. The maximum basic life insurance is \$250,000. The maximum optional life insurance amount is \$500,000.
- b. Employees cannot participate in group dental insurance without medical insurance.
- c. NAFIs cannot sponsor or contribute to any other group medical, dental or life insurance plans for their employees.

#### **15-6. Eligibility for medical, life, or dental insurance coverage**

- a. Regular NAF civilian employees may participate if they work for a NAFI in the 50 United States, the District of Columbia, or Puerto Rico.
- b. Regular NAF civilian employees in foreign areas may participate if they are US citizens, or the spouse or child of a US citizen, subject to Status of Forces agreements where applicable.

#### **15-7. Effective date**

- a. For new employees group insurance becomes effective the day the employee signs and submits the enrollment election forms to the CPU, provided the employee does this within the first 31 days of employment.
- b. During an open enrollment period, the effective date shall be as specified by the Benefits Program Manager.

#### **15-8. Family members**

- a. Effective 1 January 1989, employees enrolled in the group life insurance program have family member life insurance for their spouse and eligible children. If the spouse dies, the employee will receive a \$5,000.00 benefit. If an eligible child dies, the employee will receive a benefit of \$2,500.00 for each eligible child. Employees in an LWOP status who have elected to continue insurance coverage are eligible for family member life insurance benefits. Employees may purchase additional optional dependent life insurance as specified in the Group Life Insurance Plan.
- b. Family members may be included under the U.S. Army NAF Group Life Insurance Plan and the DoD NAF HBP pursuant to the rules established in those plans.
- c. An employee who is enrolled in single (self-only) coverage may apply for DoD NAF HBP family coverage within 31 days of gaining a new family member (e.g., through marriage or the birth of a child).

#### **15-9. Open enrollment periods**

- a. Application for group insurance may be made, using the required enrollment forms:
  - (1) During an employee's initial 31-day eligibility period.
  - (2) During an open season enrollment period.
- b. An "open season" for group insurance will be announced from time to time. The open enrollment period will normally be a 30-day period. Employees who did not apply for group insurance during the initial 31-day eligibility period may apply during this period without evidence of insurability. During this period insured employees also may—
  - (1) Apply for group medical/dental insurance for family members.
  - (2) Add dental insurance to medical insurance.
  - (3) Drop dental insurance and keep medical insurance only.
  - (4) Add life insurance or change life insurance coverage.
  - (5) Change medical coverage.

#### **15-10. Changes in medical, life or dental insurance coverage**

- a. The amount of basic life and accidental death and dismemberment insurance coverage will change with the effective date of the pay adjustment, unless the employee is not in a pay status on that date; when the employee is not in a pay status on the date of the pay adjustment, the amount of coverage will not change until the employee returns to a pay status for one full day. Employee deductions will change the first full pay period on or after the pay adjustment.
- b. When an insured employee enrolls in family medical insurance within 31 days of gaining a family member, insurance will become effective the date payroll deductions begin. A newborn child will be covered from the date of birth, if application for family coverage is made within 31 days of birth. Premium payments will be due retroactively to the pay period coincident with or next following the date of birth.
- c. For life insurance purposes, employees on LWOP at the time of enrollment or increase in coverage must return to work for life insurance increase or for coverage to become effective.
- d. Absent a qualifying event, an employee may not change from family coverage to single coverage nor cancel medical insurance option plans unless the employee declines participation in the plan covered by IRS Section 125. The reduced coverage will become effective the date deductions are decreased.
- e. Dental coverage cannot be discontinued unless medical coverage is also discontinued. When medical coverage is discontinued, dental coverage is automatically discontinued.

#### **15-11. Transfer of employment**

- a. A transfer from one DoD NAFI to another will not cancel existing DoD NAF HBP medical/dental insurance coverage as long as there is no break in service.

b. Participating employees who transfer from an installation where they are covered by an HMO, may enroll in the DoD NAF HBP Plan or HMO program approved pursuant to para 15–15 with the same class of coverage as was in effect at the former installation without a break in insurance coverage.

#### **15–12. Termination of insurance**

- a. An employee ceases to be insured on the earliest of the following:
- (1) The date employment ends.
  - (2) The date the employee becomes ineligible due to change in appointment category from regular to flexible.
  - (3) When an employee on LWOP requests discontinuance of insurance and deductions from pay stop, or when an employee is determined to be in default on required premium payments.
  - (4) The date the master group contract terminates.
- b. A family member ceases to be insured on the earliest of the following dates:
- (1) The date the family member becomes ineligible in accordance with the applicable plan document.
  - (2) The date the family member commences active duty in the armed forces of any country.
  - (3) The date the employee is no longer insured.
  - (4) The last day of the last pay period for which an employee makes contributions for family member coverage.
  - (5) The day the master group contract terminates.
- c. Employees covered by medical insurance benefits may elect temporary continued coverage in accordance with the rules of the NAF DoD HBP.

#### **15–13. Retiree Medical Program**

- a. Effective 1 January 1991, the Army Retiree NAF Medical Program was implemented. The following are the eligibility criteria:
- (1) An active employee who was participating in the Army NAF medical program (PPO and/or HMO) on December 31, 1999, with a minimum of five years of participation immediately preceding retirement and who receives an immediate annuity from the U.S Army NAF Retirement Plan, is eligible for subsidized retiree medical and dental insurance;
  - (2) An active employee who was participating in the Army NAF medical program (PPO and/or HMO) on December 31, 1999, who subsequently retires between the ages of 62 and 65 on an immediate annuity and has fifteen years of participation in the Army NAF medical program, of which five years must immediately precede retirement, will receive free retiree medical and dental insurance until age 65. After age 65, the retiree is eligible for subsidized retiree medical and dental insurance (post-retirement medical (PRM) coverage);
  - (3) An active employee who was not participating in the Army NAF medical program on December 31, 1999 is eligible to continue in the DoD NAF HBP following retirement (PRM) if he or she meets the following three conditions:
    - (a) Is enrolled in the DoD NAF HBP (either HMO or non-HMO) on the day before retirement. Employees who wish to continue dental coverage must also be enrolled in the dental plan associated with their medical plan the day before retirement.
    - (b) Has fifteen years of cumulative participation in any combination of DoD NAF Component medical plans and the DoD NAF HBP (both HMO and non-HMO). Participation does not have to be continuous. Continuation of dental coverage also requires fifteen years of cumulative participation in the dental plan associated with their medical plan.
    - (c) Receives an immediate NAF annuity, or Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) annuity provided the employee elected CSRS or FERS coverage under the provisions of the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, amended by P.L. 104–106.
- b. Eligible retirees may elect single or family medical and dental coverage. Survivors may continue participation in accordance with the DoD NAF HBP.
- c. Retirees who were members of HMOs may choose to—
- (1) Convert their coverage to an individual policy with the HMO. The retiree should contact the appropriate HMO member services office to arrange for conversion and premium payment procedures.
  - (2) Convert their coverage to the DoD NAF HBP and arrange for premium payment.

#### **15–14. Contributions**

- a. Funding of the basic group life insurance plans and all classes of medical and dental insurance coverage is accomplished by cost sharing between the participating employee and employing NAFI. Optional life insurance is offered on an employee-pay-all basis. Contributions applicable to the group life, medical and dental insurance plans are subject to change by interim announcement.
- b. Employees who join the group life or medical and dental insurance plans make premium payment through payroll deductions. Deductions begin the first pay period on or after the date the DA Form 3473, Part II enrollment form is signed and submitted by the employee and processed by payroll.



c. Participating employees on approved LWOP in excess of one pay period must document their decision to continue or discontinue their insurance coverage on DA Form 3473 when starting LWOP. Employees who cancel coverage will not be eligible to re-enroll until the next open enrollment.

d. For participating employees on LWOP or whose pay is insufficient to cover the required contributions, the servicing payroll office will—

(1) Deduct the employee and employer contributions from the employing NAFI account.

(2) Notify the NAFI of the payment and the amount to be collected from the employee.

e. Seasonal employees in a non-duty, non-pay status will be treated as any other employee in a LWOP status for payment of premium contributions in a leave without pay status.

f. If financial hardship is placed upon the employee through no personal fault, the employing NAFI Fund Manager may waive the requirement for the employee to repay the NAFI.

### **15–15. Health maintenance organizations**

a. The HMO Act of 1973 (PL 93–222) was amended in 1981 by PL 97–35. NAFIs were required to offer the services of HMOs to NAF employees as competitive health care plans under certain circumstances. Effective 25 October 1995, the HMO Amendment Act of 1988 eliminated the requirement for offering HMOs. Existing agreements with HMOs will remain in effect until canceled, or replaced.

b. HMOs are made available to employees as an alternative means of health care coverage to the uniform DoD NAF HPB. HMOs may not compete with the DoD NAF HBP.

c. For an HMO service agreement to remain in effect, an HMO must—

(1) Be qualified by the Department of Health and Human Services.

(2) Operate in an area where 25 or more NAF employees live who are eligible for the CFSC-sponsored program.

(3) Contact CFSC–HRB between 1 January and 30 June requesting that their services be offered the following 1 January.

(4) Establish a letter of agreement with CFSC–HRB which includes effective dates, payment arrangements and other administrative procedures.

d. Employees who elect to use HMO services deal directly with the HMO for all medical treatment, complaints, and disputes. Agreements between CFSC–HRB and HMOs are established only for the purpose of facilitating the insurer/insured relationship between the HMO and the employee. CFSC–HRB assumes no responsibility for the services provided by the HMO. HMO premium contributions will be withheld from participating employees' bi-weekly pay and distributed to the HMO, as determined by CFSC–HRB, along with such employer contributions as have been approved by the MWR Board of Directors.

e. Employee eligibility, enrollment procedures and other policy matters as they pertain to employee participation in an HMO will be as prescribed in directives on the DoD NAF HPB. An employee may switch between an HMO and the DoD NAF HPB only during open enrollment periods or as authorized under the Health Insurance Portability and Accountability Act (HIPAA). When an HMO offers an allied dental plan, employees desiring dental insurance who elect HMO health coverage will participate in the HMO dental plan. Employees may elect the HMO health plan and the DoD NAF HPB dental coverage in areas where the HMO does not offer a dental plan.

f. HMO representatives will provide employees information describing the HMO services, coverage, conversion rights, facilities, and costs. Commanders are encouraged to allow HMO representatives access to employees to describe their existing plans a month before and during the open enrollment period.

## **Section III**

### **Retirement Plan for NAF Employees**

#### **15–16. General**

a. The US Army NAF Employee Retirement Plan was established on 1 January 1966. It is designed to give retirement income benefits to NAF civilian employees, and is for that purpose only. These retirement benefits, when combined with social security benefits, give retired or disabled NAF employees, or their eligible survivor(s), a degree of financial security.

b. NAFIs cannot sponsor or contribute to any other retirement plan for their employees.

#### **15–17. Retirement plan administration**

a. The trustees of the US Army NAF Retirement Plan Trust, appointed by the Commander of CFSC, are to receive and invest contributions from both employees and employers, and provide funds to pay retirement benefits to NAF employees. The Commander, CFSC, will appoint a Fund Manager to safeguard and supervise the administration of the fund.

b. Benefits cannot be attached or garnished, or be subject to debt collections, except as permitted by law. Retirement benefits are paid to the retiree or his or her eligible beneficiary(s).

c. Recoupment may be made from refunds of retirement contributions in satisfaction of obligations to a NAFI, or collection of overpayments of travel expenses paid from APF.

#### **15-18. Retirement plan eligibility**

To participate in the retirement plan, an employee must be a regular employee:

- a. Working in one of the 50 United States, the District of Columbia, or Puerto Rico; or
- b. A US citizen or the spouse or child of a US citizen if working for a NAFI in a foreign area, subject to Status of Forces agreements where applicable; or
- c. A vested (five or more years participation) participant who completed OPM Form RI-38-110 and made an irrevocable election to continue participation in the USA NAF Retirement Plan under the Portability of Benefits for Nonappropriated Funds Employees Act of 1990, as amended.

#### **15-19. Retirement plan participation**

- a. Participation in the retirement plan is mandatory for the first 6 months for employees hired on or after January 1, 2001. Regular employees may join the retirement plan at any time, subject to c below.
- b. Employees may discontinue participation at any time.
- c. Active employees who discontinue participation may rejoin the plan after a 2-year period; no retirement credit is authorized for this 2-year period. Employees who discontinue participation a second time are not eligible to rejoin the plan.
- d. Former employees, who previously participated in the retirement plan and left their contribution on deposit, may rejoin the retirement plan upon return to duty in a regular position. Employees will receive service credit for the prior participation. Former employees who requested and received a refund of contributions may repay the refund and receive retirement service credit.

#### **15-20. Contributions**

- a. Employees contribute 2% of gross pay. Effective 1 January 1997, gross pay includes base pay, premium pays, lump sum leave when transferring from one Army NAFI to another, monetary awards, tips and bonuses.
- b. Employing NAFIs contribute as much as needed to keep the plan financially sound, but never less than the employee. Changes in NAFI contributions are announced by the Program Manager as they occur. NAFI contributions are not refunded; they stay in the plan for the benefit of employees.
- c. When insufficient contributions have been made by the NAFI to the retirement plan for a participant, a one time lump sum payment is required.
- d. Employees who separate and withdraw their contributions will, upon reemployment in a regular position, receive their past retirement service credit in accordance with the U.S Army Nonappropriated Fund Employee Retirement Plan document (see para 15-19d).
- e. Participants who become ineligible to participate may request to have their plan contributions refunded. Employee contributions plus interest computed in accordance with the plan document will be paid to employees who request a refund. Participating employees with 5 years or more credited service are vested and have a right to a lifetime benefit in accordance with the Retirement Plan document. When a vested employee requests a refund of his or her contributions, a waiver from their spouse (if married) consenting to the refund of contributions instead of the lifetime benefit will be included with the refund request, DA Form 3715 (US Army Nonappropriated Funds-Disposition of Retirement Benefits).
- f. Active employees who discontinue participation in the plan, but remain employed by a NAFI, may not withdraw their contributions until separated or placed in an ineligible employment category.
- g. Participants in a LWOP status do not continue retirement contributions.

#### **15-21. Credited service**

- a. Credited service for purposes of the retirement plan is as follows:
  - (1) Before 1 January 1966 - years and months of full-time continuous employment, beginning with the date of appointment by a DA NAFI, excluding employment with AAFES or the Motion Picture Service. Service credit ends with the earliest of separation, death, or retirement. There must be no break in employment which exceeded 90 days. Creditable service is not given for breaks in employment. The employee must have been on the rolls as of 1 November 1965.
  - (2) Between 1 January 1966 and 1 April 1981 - years and months of full-time continuous employment, beginning with date of appointment. Service credit ends with the earliest of separation, death, or retirement. During this time, participation in the retirement plan was mandatory. Contributions began following 12 months continuous employment.
  - (3) From 1 September 1969 to 1 April 1981, part-time employment of at least 25 hours a week by employees who had completed 1 year of continuous service and contributed to the plan after 1 September 1969. Employees in this category who had 1 year of continuous service on 1 September 1969 have credited service beginning 1 September 1968

(4) Effective 1 April 1981 retirement plan participation was voluntary. On or after 1 April 1981 credited service is the months and years of regular employment during which the employee contributes to the plan.

(5) Between 1 July 1974 and 1 October 1979 for citizens of Panama employed during this time by a DA NAFI in the Panama Canal Zone.

(6) Regular seasonal employees participating in the retirement plan receive one year of credited service for seasonal employment per 12-month period.

b. Employees on authorized leave of absence and employees in leave without pay status as a result of entitlement to workers' compensation benefits shall receive up to one (1) year of credited service for such leave.

c. Honorable service in the Armed Forces of the United States, for employees who were inducted, enlisted, called to active duty, or recalled to active duty while employed by a DA NAFI is credited, not to exceed 5 years. The employee must have been participating at the time of departure for such duty and must return to NAF employment within the time such reemployment is protected by law. After attaining eligibility for an annuity such service will be added to arrive at total credited NAFI employee service for purposes of computing the amount of the annuity.

d. Unused sick leave (SL) may not be used to attain retirement eligibility; however, SL will be added to the employee's credited service at the time of retirement if the employee has 5 years of service and 80 or more hours of unused SL. Unused SL is added to normal, early, or deferred retirement. See Table 15-1 to determine months of credited service to be added for hours of unused sick leave.

**Table 15-1**  
**Conversion of sick leave for creditable service**

Hours of Unused Sick Leave <sup>1</sup>	Months of Credited Service
80 or less	0
81-240	1
241-400	2
401-560	3
561-720	4
721-880	5
881-1,040	6
1,041-1,200	7
1,201-1,360	8
1,361-1,520	9
1,521-1,680	10
1,681-1,840	11
1,841-2,080	12

Notes:

<sup>1</sup> For unused sick leave of more than 2080 hours, add one month of credited service for each increment of 160 hours over 2080 hours.

e. To enable employees to reach first eligibility for a retirement annuity or retiree health insurance, employees shall be carried in an annual leave status beyond the scheduled separation date to the extent such leave is available in the employee's annual leave account. An employee may not be carried in a leave status to enable the employee to become eligible for optional retirement if he or she is already eligible for early retirement.

f. Service as an APF employee pursuant to an election to participate in the NAF Retirement Plan made under Portability PL 101-508, as amended by PL 104-106, is credited.

g. For employment with another DoD NAFI see para 15-28.

## **15-22. Retirement benefit eligibility**

a. *Normal retirement.* Employees who have participated in the plan 5 years or more and are age 62 or older at the time of retirement will receive an unreduced benefit upon retirement.

b. *Early retirement.* Employees who have participated in the Retirement Plan for 5 years and are age 52, or who have participated in the plan 20 years and are age 50, are eligible for a reduced retirement benefit payable immediately.

(1) These employees may also wait to receive an unreduced retirement benefit with payments starting at age 62.

(2) Unless an employee meets the requirements of subparagraph (3) below, employees who elect to receive immediate retirement benefits before age 62 will have their benefit reduced by one-third of 1 percent (4 percent per year) for each month that the benefit starts before age 62. The reduction factor compensates for the fact that the retiree will be receiving benefits over a longer period.

(3) Employees who are age 55 with 30 years of credited service, or age 60 with 20 years credited service, may retire at any time with an unreduced benefit.

c. *Deferred retirement.* Employees who work past age 62 and continue contributing to the plan continue earning benefits under the plan. Their retirement benefit is paid when they retire or their employment is otherwise terminated.

d. *Retirement payment options.*

(1) *Married employees.* The normal benefit for a married employee shall be the benefit earned, reduced by 10 percent, with 55 percent of the earned benefit continued to the spouse when the employee dies. A married employee may also elect a form of benefit with 100 percent of the benefit to be continued to the spouse when the employee dies. With the written notarized consent of the spouse, the employee may elect one of the benefit options available to an unmarried employee (no survivor benefit).

(2) *Unmarried employees.* The normal benefit for unmarried employees is the benefit earned, paid for life. They receive this amount until death. If death occurs before receiving an amount equal to their contributions plus 3 percent interest compounded annually, the difference will be paid to the beneficiary. This is called a modified cash refund benefit. Employees may also elect to—

(a) Have their retirement paid for a minimum of 5 or 10 years, even if they die before then. The benefit will be a reduced amount. If death occurs before the period is over, payments will continue to the designated beneficiaries for the period elected; then payments stop. If the retiree lives beyond 5 or 10 years, the benefit will continue until the retiree's death and then payment will stop.

(b) Receive a reduced benefit with a designated beneficiary as a survivor. Participants may elect a benefit payment option with the survivor receiving 100 percent of the benefit when the employee dies. If the designated survivor dies before the retiree, a new survivor cannot be named. The retiree may, however, designate a new beneficiary to receive any remaining contributions and interest.

e. *Small monthly retirement benefits.* For any retirement benefit of \$100 a month or less, the Benefits Program Manager may elect to—

(1) Pay an actuarial equivalent single lump sum in full discharge of the retirement obligation.

(2) Make quarterly, semiannual, or annual payments instead of monthly payments.

### **15-23. Retirement benefit formula**

a. Retirement benefits are based on the participant's years of credited service and the employee's "high 3" average compensation. High three average compensation means the highest average rate of basic annual compensation for any 36 consecutive months for which contributions were made to the employee retirement plan. Selection of the high 3 is determined by the dates of actual participation during eligible employment periods.

b. Normal annual retirement benefits are the sum of:

(1) One and two-tenths percent (1.2%) of High 3 average plus three-tenths of one percent (0.3%) of High 3 average in excess of Covered Compensation (as annually set by the Internal Revenue Service) multiplied by years of credited service not in excess of fifteen (15) years.

(2) One and six-tenths percent (1.6%) of High 3 average plus three-tenths of one percent (0.3%) of High 3 average in excess of Covered Compensation (as set by the Internal Revenue Service) multiplied by years of credited service in excess of fifteen (15) years up to thirty (30) years.

(3) One and six-tenths percent (1.6%) of High 3 average multiplied by years of credited service in excess of thirty (30) years.

c. Disability annual retirement benefits shall be equal to the normal annual retirement benefit (less the IRS covered compensation factor) described in b. above without reduction regardless of the employee's age.

d. Early annual retirement benefits are:

(1) Normal unreduced benefits if a participant has attained age fifty-five (55) with thirty (30) years of credited service or has reached age sixty (60) with twenty (20) years of credited service,

(2) Reduced early benefits if a participant has attained age fifty-two (52) with five (5) years of credited service or age fifty (50) with twenty (20) years of credited service. For each month that benefits commence prior to the month in which the participant attains age sixty-two (62), early retirement benefits are reduced one-third of one percent from normal retirement benefits.

(3) Subject to an annual early retirement supplement payable until the participant attains his or her normal retirement date, or dies, if earlier. The amount of the annual supplement is the lesser of credited service up to 25 years multiplied by:

(a) One hundred ninety-two dollars (\$192.00); or

(b) One-half of one percent of the participant's High 3 average.

### **15-24. Voluntary Early Retirement Authority (VERA) and Discontinued Service Retirement (DSR)**

a. Voluntary early retirement is intended to reduce involuntary separations by allowing eligible employees who are not facing involuntary separation to retire early, thus creating vacancies that can be filled by employees who would otherwise be separated by business based action (BBA). This option is available for activities actually faced with separations resulting from planned major reductions, reorganizations, or transfers of function. Major means that five percent or more of the regular employees within the activity would be separated through BBA without the VERA. The

use of VERA must result in one employee saved from separation for each early retirement. Requests for VERA, submitted through command channels to HQDA (DAPE-CP-NAF), must show these savings.

*b.* DSR authority is obtained from the installation commander with payment to CFSC-HRB, when a position has been abolished and the incumbent is facing involuntary separation through BBA.

*c.* The expense of the VERA or DSR will be paid by the employing NAFI. To determine specific expenses, commanders may contact CFSC-HRB.

*d.* To be eligible for VERA or DSR employees must:

(1) Have participated in the retirement system for at least one year within the two year period immediately preceding this separation or retirement; and

(2) Have attained age fifty with twenty years of credited service, as defined in para 15-21, or be any age with completion of twenty-five (25) years of credited service.

*e.* For each month benefits commence prior to the month in which the participant reaches age fifty-five (55), the basic annuity is reduced one-sixth of one percent from benefits which would otherwise have been payable at age sixty-two (62) or later.

#### **15-25. Requesting retirement benefits**

*a.* Employees will inform the CPAC/NAF-CPU of their retirement date 30 days in advance or as soon as possible.

*b.* The CPAC/NAF-CPU will verify employee eligibility for retirement benefits, and assist the employee in completing DA Form 3715.

*c.* An estimated benefit will be calculated based on credited service and high three average:

*d.* The estimated benefit will be provided the retiree during the period required for the determination of regular benefit option. Retirement benefit options will be provided to the retiree for a final and irrevocable election. The retiree will select an option and return the completed retirement benefit option papers to the Program Manager within 45 days of receipt. The estimated benefit will stop and the regular benefit will begin the first of the month following receipt of the retirement option papers by the Program Manager. Adjustment will be made for any discrepancy between the regular benefit and the estimated benefit already paid.

*e.* Information on the Retiree Medical Insurance Plan or the 18 month extended coverage will be provided to the retiree with the retirement option form.

*f.* Retirees who participated in the group life insurance program for five years immediately preceding retirement will be provided with a continuation of life insurance certificate provided they elect an immediate annuity.

*g.* Additional credited service is given for unused SL in computing normal and early retirement benefits. (See para 15-21d and Table 15-1.)

*h.* The date of retirement and the date of separation are the last day an employee is in a pay status. Estimated benefit payments will begin on the first day of the month after an employee separates or retires.

#### **15-26. Disability retirement and survivor benefits**

*a.* An employee who participates in the retirement plan and has reached age 52, or has 5 years of credited service, is eligible to request a disability benefit under the plan if while employed the employee becomes unable to perform useful and efficient service in his position or any other position offered by the employer of the same grade or class. Disability is determined by the Benefits Program Manager based on the advice of qualified medical authority. The disability must be determined to be total and permanent.

*b.* Applications for disability benefits should be initiated as soon as possible, but in all cases application for disability benefits must be submitted within 60 days after the employee's separation.

*c.* In certain instances, a normal or early retirement benefit may provide the retiree with a larger benefit. When this is the case, the Program Manager will determine the greater benefit and provide this information to the retiree.

*d.* Employees receiving a disability retirement may be eligible for one year of free medical insurance if they were participating in the DoD NAF HBP preceding the disability retirement. Employees in a non-contributing LWOP status are not eligible for this benefit.

*e.* A survivor benefit is payable to the spouse of a participant who has 5 years of credited service under the plan and who dies while actively employed. The spouse must have been married to the employee for at least 1 year immediately preceding the employee's death.

*f.* The benefit is payable upon receipt of a completed DA Form 3715, a certified death certificate (outside the US, a notice of the death of the participant), and verification of the date of marriage and dates of births as evidenced by—

(1) Any legal form or certificate.

(2) A life insurance policy at least 5 years old in which ages are recorded, or the survivor is named as the legal spouse, or both.

(3) A certified copy of a page from the family Bible.

(4) Age shown on a naturalization or school paper.

(5) Affidavits of two witnesses to the marriage.

(6) A US passport.

g. When there is no surviving legal spouse or surviving children, contributions and interest only will be refunded to the beneficiary designated on DA Form 3473, or to the estate.

#### **15-27. Cost-of-living increases for retirees**

a. Effective April 1, 1988, and each 1 April thereafter, each participant and beneficiary receiving retirement or survivor benefits from the Plan shall be entitled to have the benefit he or she is then receiving adjusted.

b. The Program Manager and the trustees will review the financial condition of the Plan annually and make recommendations to the Commander on benefit increases as the financial condition of the Retirement Plan permits.

#### **15-28. Employment with another DOD NAFI**

a. Effective April 1, 1983, NAFI employees may carry forward service accrued for retirement annuity purposes when they are employed by another DoD NAFI without a break in service of more than 90 days. Upon retirement, benefits will be computed to include all creditable service with the former DoD NAFI and the current DoD NAFI using the retirement formula for the current DoD NAFI. Where applicable the retiree will receive multiple benefit payments from the former NAF retirement plans and from the current NAF retirement plan. This paragraph does not apply to employees who moved between 1 August 1975 and 1 April 1983, unless the employee was affected by an involuntary transfer of function or reduction-in-force.

b. When contributions have been withdrawn from the former retirement plan, the value of the monthly benefit from the former retirement plan will be used as an offset by the Army NAF retirement plan.

#### **15-29. Reemployment of retirees**

a. If an Army NAFI retiree is rehired by an Army NAFI in a regular position, his or her benefit will be discontinued for the period of employment. The retiree may elect to rejoin the retirement plan and earn additional service credit. If he/she elects to rejoin the plan, the extra service will be added and a new benefit will be computed; the employee will receive the greater benefit upon separation.

b. If an Army NAF retiree is employed by a DoD NAFI other than Army, his/her Army benefit continues.

c. If an individual who has retired from a DoD NAFI other than Army is employed by an Army NAFI, his/her pre-retirement service is not creditable under the Army plan.

#### **15-30. Payroll deductions**

a. Employees who join the US Army NAF Employee Retirement Plan have payroll deductions start with the first full biweekly pay period on or after the date the signed DA Form 3473 is processed by payroll.

b. Employees who transfer from one Army NAFI to another without a break in service continue contributions to the plan.

#### **15-31. Retirement certificates and pins**

Each participant in the Army NAFI retirement plan who retires will be presented with a DA retirement pin, a DA Form 4250 (DA Certificate of Retirement); and a DA Form 4251 (DA Certificate of Appreciation). Both forms are to be encased in a folder. No other retirement certificates or pins are authorized. NAFI employees who separate before retirement age and elect a deferred benefit will be provided a certificate of deferred benefit.

#### **15-32. Proof of Survival**

Proof may be required that the person to whom a retirement benefit is being paid is living on the date of any retirement benefit payment. Benefits may be suspended until the requested proof of survival is received.

### **Section IV**

#### **US Army Nonappropriated Fund Employee 401(k) Savings Plan**

#### **15-34. General**

a. The USA NAF 401(k) Savings Plan (Savings Plan) was established on 1 January 1992. The Savings Plan Trust was established at the same time to receive funds from, invest funds for, and disburse funds to or for eligible plan participants.

b. The Savings Plan is a defined contribution pension plan and functions as a qualified tax deferred plan pursuant to Section 401(k) of the Internal Revenue Code and other applicable statutes. The Savings Plan is intended to provide eligible employees with an attractive, convenient, tax deferred way to save additional amounts for retirement.

c. As a qualified plan, both employee and employer contributions as well as investment earnings credited to participants' accounts are considered tax deferred compensation for federal income tax purposes and for purposes of state income taxes in all states except Pennsylvania and a few municipalities. Employees may contribute to the Savings Plan in whole percentages of their pay; their employing NAFI will match the employee's contributions as shown below in Table 15-2.

**Table 15–2**  
**Employee/employer contributions**

Employee contributes:	Employer contributes:
0.0% of pay	0.0% of pay
1.0% of pay	1.0% of pay
2.0% of pay	2.0% of pay
3.0% of pay	2.5% of pay
4.0% and above	3.0% of pay

### **15–35. Administration**

The trustees of the Savings Plan Trust are responsible for selecting an investment manager for the assets of the Savings Plan. Trustees must be participants in the Savings Plan. Trustees are appointed by and serve at the pleasure of the Commander, CFSC, without compensation for trust duties.

### **15–36. Eligibility**

To participate in the Savings Plan, an employee must be a regular employee:

- a. Working in one of the 50 United States, the District of Columbia, or Puerto Rico; or
- b. A US citizen or the spouse or child of a US citizen working for a NAFI in a foreign area; or
- c. A vested (five or more years participation) participant who signed OPM Form RI-38–110 (Election of Retirement Coverage as a Result of Move from a NAF Position to a Civil Service Position) and made an irrevocable election to continue participation in the USA NAF Retirement Plan under the Portability of Benefits for NAF Employees Act.
- d. Current NAF employees participating in FERS or CSRS are excluded from participation in the USA NAF Employee 401(k) Savings Plan. They may, however, be eligible to participate in the Thrift Savings Plan.

### **15–37. Participation**

Participation in the Savings Plan is voluntary. Employees eligible to participate in the Savings Plan may do so by completing DA Form 7426 (Application for USANAF Employee 401(K) Savings Plan. Changes to savings plan contribution percentages, beneficiaries, etc, must be accomplished by initiating the DA Form 7426. Any requested changes will be effective the first pay period after the request is signed by the employee and processed by the payroll office.

### **15–38. Vesting**

- a. Participants are vested in their contributions effective the date contributions begin. Separated participants may request and receive their contributions and related investment earnings.
- b. Participants in the Savings Plan are vested in the employer's contributions:
  - (1) Upon completion of 3 years service in a regular position.
  - (2) At age 62.
  - (3) Upon approval of disability by the medical authority designated by the Benefits Program Manager.
  - (4) Upon the death of the participant.
- c. Former Army NAFI employees who return to duty with an Army NAFI as a regular employee without a break in service of more than 5 years, and resume contributions, will re-enter the vesting schedule at the point where they separated from employment; any forfeited employer's contributions will be restored to the employee's account.

### **15–39. Contributions and investments**

- a. Employees elect a contribution in whole percentages not to exceed the IRS annual maximum dollar limit. Employees are responsible for compliance with statutory maximums.
- b. Employing NAFIs will match employee contributions as shown in Table 15–2.
- c. Employees who do not elect to participate in the Savings Plan on the date they become eligible, but later decide to enroll, may participate from their enrollment date forward. Retroactive contributions are not authorized.
- d. All contributions are discontinued during periods of LWOP.

### **15–40. Disposition of accounts at separation**

Dispositions may be subject to tax and or penalty in accordance with IRS requirements.

- a. Separated participants must elect one of the following options:
  - (1) Lump Sum Distribution. The distribution is equal to the vested accrued benefit as of the valuation date coincident with the date of withdrawal.
  - (2) Deferred Lump Sum Payment. Participants may defer receipt of the lump sum payment until a date on or before attainment of age 70½; a quarterly recordkeeping fee will be assessed.

(3) Rollover to an Individual Retirement Account (IRA) or another Qualified Employer Sponsored 401(k) Savings Plan.

(4) Distribution to the Spouse of a Deceased Participant. Distribution may be rolled over to an IRA within 60 days if the distribution otherwise qualifies for rollover.

*b.* Separated participants or participants converted from regular to flexible may request a payout of their accrued vested benefit.

*c.* Participants may request a payout of their accrued vested benefit for an approved hardship as listed below:

(1) Purchase of a primary residence.

(2) Prevention of foreclosure of a primary residence. (3) Prevention of eviction from a primary residence.

(4) Medical expenses not covered by insurance.

(5) Post-secondary tuition for the employee, spouse or dependents.

*d.* Participants should contact their investment manager for additional information.

#### **15-41. Loan Program**

*a.* A current employee who is vested, and whose pay is processed by Nonappropriated Fund Financial Services (NFS) may request a loan through the Savings Plan loan program. Such employees may borrow against the assets of their Savings Plan account in accordance with the provisions of the plan document.

*b.* Terms of each loan and repayment procedures will be established prior to the investment manager approving the loan. The investment manager will ensure that each borrower receives information concerning loan procedures, the events constituting default, the steps that will be taken in the event of a default and a statement of the charges associated with each loan.

*c.* Fees charged by the investment manager will be paid by the borrower and made a part of the loan.

### **Chapter 16**

#### **Personnel Records, Files and Reports**

##### **16-1. General**

*a.* The establishment and maintenance of office files in the CPAC/NAF-CPU will be in accordance with the Modern Army Records Keeping System (AR 25-400-2).

*b.* The use of Standard Forms in connection with NAF personnel actions is prohibited, except as specifically authorized by this regulation. Likewise, the use of DA forms designated solely for use in connection with APF civilian personnel actions is prohibited except as specifically authorized by this regulation.

*c.* NAF employment forms. The forms listed in Appendix A are prescribed for use in connection with NAF employment of civilian and ODM employees and are available electronically. Any supplemental forms designed for local use will be clearly marked "Nonappropriated Fund Instrumentality Employees."

*d.* These instructions provide for the systematic and uniform creation and maintenance of official records pertaining to the employment of NAF personnel and are intended to eliminate the creation of duplicate or unnecessary records. The entries on the documents of record as prescribed in this regulation give full force and effect to the personnel transactions set forth thereon. These requirements will be observed by all persons responsible for the creation, maintenance, custody and disposition of NAF personnel records.

##### **16-2. Personnel folder**

*a.* An official personnel folder (OPF) will be maintained for each civilian and ODM employee paid from a NAFI. All official personnel documents effected during the employee's service, as prescribed in this chapter, will be filed in the OPF. The OPF will be established at the time when the employee receives an initial appointment to a position paid from a NAFI. If an employee transfers to another NAFI, or is re-employed after a break in service by a NAFI, the personnel folder will be requested from the CPAC/NAF-CPU performing personnel operations for the losing NAFI, or from the National Personnel Records Center (NPRC), Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118, if the break in service exceeded one year. The specifications for the OPF for NAF employees are similar to the specifications for the OPF used for APF employees. The outside of the folder will be marked in one-half inch letters "NONAPPROPRIATED FUND INSTRUMENTALITY EMPLOYEE." A label will be affixed to each folder showing the name, date of birth, and social security number of the employee. Personnel records of employees who move between NAF and APF employment, who are covered by Portability, PL 101-508, will be combined using the Merged Records Personnel Folder, SF Form 66-C. Medical records are combined in SF Form 66-D (Employee Medical Folder).

*b.* Requirements for merging personnel folders will be in accordance with the OPM Operating Manual – The Guide



to Personnel Recordkeeping. The employing system will maintain the OPF; however, actual ownership belongs to the system that merged the records.

### **16-3. What to keep in the personnel folder**

The records listed below will be fastened on the right side of the personnel folder.

- a. Records originating on appointment—*
  - (1) Job Description/Position Guide Nonappropriated Fund
  - (2) Employment Resume or other Application for NAF Employment
  - (3) DA Form 3433-1 (Nonappropriated Fund Supplemental Employment Information)
  - (4) DA Forms 3434 (Notification of Personnel Action - Nonappropriated Fund Employee).
  - (5) DA Form 3473 (Application for USANAF Retirement Plan and/or Group Insurance Plans)
  - (6) DA Form 3436 (Department of the Army Appointment Affidavit)
  - (7) DA Form 3437 (Department of the Army Nonappropriated Fund Certificate of Medical Examination) and DA Form 3666 (Department of the Army Statement of Physical Ability for Light Work) or comparable medical certificate, when any of these are required. (Such medical records must be kept in a separate file during employment with DA activities. See para 15-5.)
  - (8) DA Form 3440 (as appropriate). (Department of the Army Transportation Agreement Nonappropriated Fund Employee)
  - (9) DA Form 5521 (Record of Emergency Data and Designation of Beneficiary for Unpaid Compensation of Deceased NAF Employee).
  - (10) INS Form I-9. (Employment Eligibility Verification)
  - (11) DA Form 7427 (Nonappropriated Fund Inprocessing and Outprocessing Check List)
  - (12) DA Form 7428 (Nonappropriated Fund Supervisors Orientation Checklist)
- b. Records originating during an employee's service, filed in chronological order with the most recent filed on top.*
  - (1) DA Form 3434.
  - (2) DA Form 3440
  - (3) DA Form 3473.
  - (4) DA Form 4017 documenting details in excess of 30 days.
  - (5) DA Form 5167 with attachments.
  - (6) Notice of Injury or Occupational Disease. (Such records must be kept in a separate file during employment with DA activities. See para 16-5.)
  - (7) Letters of commendation relating to the performance of official duties clearly above the performance normally expected.
  - (8) Records of required training completed.
  - (9) Notices of decision to effect non-disciplinary adverse action (for example, disqualification, BBA, etc.).
- c. Records originating with separation or disciplinary actions.*
  - (1) DA Form 3434.
  - (2) DA Form 3473.
  - (3) DA Form 3715.
  - (4) DA Form 4017 (Resignation signed by the employee or a statement signed by the official who received an oral resignation).
  - (5) Records used to determine an employee's fitness for duty. Attach to the right side of the OPF, in a sealed envelope marked medical records, when retired to the National Personnel Records Center (NPRC).
  - (6) Transcript of court order if separation resulted from a decision of a court of competent jurisdiction that the individual is mentally incompetent.
  - (7) Notice of retirement or notification of approval of application for disability retirement.
  - (8) Notices of decision to effect non-disciplinary adverse action (disqualification, BBA, etc.), disciplinary actions or performance based actions. Notices of proposed unsatisfactory performance or non-disciplinary/disciplinary actions, with any reply from the employee, or memorandum or other document necessary to support the action if the proposed action, is effected. Notices of proposed action will be removed if the proposed action is canceled.
  - (9) Completed DA Form 7427 (outprocessing portions).

### **16-4. Temporary and required records**

- a. Any document or locally developed form originating during NAF employment which is not specified in paragraph 16-3 will be filed on the left side of the OPF. Some examples are requests for personnel actions, letters of reprimand and internal placement forms. Such material should be kept to a minimum in the folder in order to avoid bulkiness.*
- b. The servicing CPAC/NAF-CPU will establish—*

- (1) A chronological file of DA Forms 3434, filed in order of the effective dates of the actions.
- (2) A alphabetical file of personnel folders.
- (3) A chronological file of notices of local vacancies and recruitment actions.
- (4) A suitability file to retain the background documents for:
  - (a) Separation actions that do not afford the employee appeal (third-stage grievance) rights (e.g., medical disqualification, separation from FLX, abandonment of position, etc.).
  - (b) Criminal history background checks.
  - (c) Security clearances. These files must be retained for two years from the effective date of separation. The disclosure of information to a state agency from this file is permitted. In no case will this suitability file be forwarded with the employee's official personnel folder either to another federal agency or to the NPRC.
- (5) A chronological record of all personnel folders forwarded to another CPAC/NAF-CPU or the NPRC. This record will be maintained for five years from the date the OPF is forwarded.

#### **16-5. Safeguarding personnel records**

- a. NAF records shall be safeguarded in accordance with the applicable Privacy Act systems notice.
- b. Documents that have been identified as classified pursuant to AR 380-5 must be stored in files that meet the specifications of that regulation.
- c. Records of medical examinations and other miscellaneous medical records will remain under the control of the installation medical facility. Where no medical facility is available, the records will be kept in a separate locked cabinet during the employee's NAF service and may not be made a part of the active personnel folder.
- d. Responsible officials will take the necessary steps to protect the confidential nature of the contents of the OPFs of NAF employees.
  - (1) Information that can be released to the public consists of the employee's name, position, title, grade, salary and duty station, except when—
    - (a) The release of the information is prohibited by law, Executive Order or regulation in the interest of national security.
    - (b) It is reasonably believed that such information will be used for purposes which violate the regulatory prohibition against political activity on the part of NAF employees.
  - (2) In addition to the information listed in (1) above, a prospective employer may be given the following information about an employee or former employee:
    - (a) Type of appointment.
    - (b) Length of NAF Service.
    - (c) Additional information may be released with the written consent of employee former employee.
  - (3) Apart from the information that may be made available under (1) and (2) above, the home address or other Privacy Act protected information of an employee will only be made available to a third party upon receipt of an order of a court of competent jurisdiction or a written request from the head of a law enforcement activity specifying the portion of the record desired and the law enforcement purposes for which it is sought.
  - (4) A current or former employee will be permitted access to the information in his or her own OPF only in the presence of an official of the servicing CPAC/NAF-CPU who is responsible for the physical custody of the OPF.
  - (5) Committees or sub-committees of Congress, if the matter is within their jurisdiction, may have access to a NAF personnel folder. Individual members of Congress may have access to such records only if pursuant to a congressional made by the individual who is the subject of the records.
- e. Medical information about an applicant, employee or former employee may not be made available to the public. Such information may be disclosed to the applicant, employee or former employee; however, if it is determined that releasing medical information to that individual could have an adverse effect on his or her mental or physical health, the individual will be asked to name a physician to receive the information. Medical information may be disclosed to any third party upon receipt of a signed and notarized disclosure statement from the applicant, employee or former employee authorizing release of the medical information to that third party.
- f. All NAF OPFs will be under the control of the servicing CPAC/NAF-CPU.

#### **16-6. Disposition of the personnel folders**

- a. When an employee transfers to another NAFI, the losing CPAC/NAF-CPU will forward the employee's OPF promptly upon receipt of a request from the CPAC/NAF-CPU servicing the gaining NAFI. In cases where an employee is separated from employment with a NAFI, but is later employed by another NAFI before the personnel record has been sent to the NPRC, the personnel folder will be forwarded promptly upon receipt of a request from the servicing CPAC/NAF-CPU of the gaining NAFI.
- b. When an employee is separated from a NAFI and is not subsequently employed by another NAFI, disposition of the OPF will be in accordance with AR 25-400-2.

c. Before releasing the OPF to the NPRC or another servicing CPAC/NAF-CPU, the folder will be reviewed to ensure that—

(1) All outstanding permanent records are properly included, arranged in the proper order and securely fastened on the right side of the folder. For example, if investigative forms (SF Form 85 (Questionnaire for Non-Sensitive Positions) or SF Form 86 (Questionnaire for National Security Positions) and/or medical record forms (DA Form 3437 or DA Form 3666) are not kept in the folder during employment, they should be obtained and included on the right side of the folder.

(2) All temporary records on the left side of the folder are removed and destroyed, except in a transfer-out or transfer-of-function. (Temporary records should be left in the folder when it is being sent to another DA servicing CPAC/NAF-CPU.)

(3) All records not authorized to be in the folder and all exact duplicates of records are removed.

#### **16-7. Defense related employment**

a. Employees in positions subject to the filing of financial disclosure reports in accordance with the Department of Defense Joint Ethics Regulation (JER), DoD 5500.7, para 2-20b, will be made aware of restrictions and reporting requirements concerning employment outside the Federal Government.

b. Employees who receive an employment offer from an Army or NAFI contractor should contact the installation Ethics Counselor to obtain counseling and written advice concerning applicable employment restrictions.

## **Chapter 17**

### **Management Controls and Audits**

#### **17-1. Key management controls**

a. Minimum essential key management controls for manager evaluation are outlined at appendix D.

b. Evaluation of management controls includes a detailed, systematic, and comprehensive examination to determine whether controls are in place, are being used as intended, and are effective in achieving their purpose. Formal evaluation of key management controls must be conducted at least once a year.

c. Evaluations must be based on actual testing of these key management controls and must make a specific determination of their effectiveness. This evaluation must be supported by documentation that clearly indicates who conducted the evaluation and when, what methods were used to test the key controls, what management control deficiencies (if any) were detected, and what corrective actions were taken. Certification that an evaluation was conducted is documented on DA Form 11-2 (Management Control Evaluation Certification Statement) prescribed in AR 11-2.

#### **17-2. Audits**

Audits are performed by the installation internal review (IR) offices, U.S. Army Audit Agency (USAAA), the U.S. Army Civilian Personnel Evaluation Agency (USACPEA) and the Deputy Chief of Staff, G-1, CPP/NAF Division.

## **Appendix A References**

### **Section I Required Publications**

#### **AR 215-1**

Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities (Cited in paras 2-2h, 2-3f and 2-4a.)

#### **AR 600-3**

The Army Personnel Proponent System. (Cited in para 12-1.)

#### **AR 608-10**

Child Development Services. (Cited in para 2-13.)

#### **DoD 1400.25-M**

Department of Defense Civilian Personnel Manual. (Cited in paras 3-26 and 13-1.)

#### **DoD 1401.1-M**

Personnel Policy Manual for Nonappropriated Fund Instrumentalities

#### **DoD 7000.14-R**

Department of Defense Financial Management Regulation, Volume 13, Nonappropriated Fund Policy and Procedures. (Cited in para 3-2g).

#### **DoDD 5120.42**

Department of Defense Wage Fixing Authority — Nonappropriated Fund Compensation Programs

### **Section II Related Publications**

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

#### **AR 5-10**

Stationing

#### **AR 5-17**

The Army Ideas for Excellence Program

#### **AR 20-1**

Inspector General Activities and Procedures

#### **AR 25-55**

The Department of the Army Freedom of Information Act Program

#### **AR 25-400-2**

The Modern Army Recordkeeping System (MARKS)

#### **AR 40-5**

Preventive Medicine

#### **AR 340-21**

The Army Privacy Program

#### **AR 380-5**

Department of the Army Information Security Program

#### **AR 380-67**

Department of the Army Personnel Security Program

**AR 570-4**

Manpower Management

**AR 600-8-1**

Army Casualty Operations/Assistance/Insurance

**AR 672-20**

Incentive Awards

**AR 690-11**

Mobilization Planning and Management

**AR 690-12**

Equal Employment Opportunity and Affirmative Action

**AR 690-600**

Equal Employment Opportunity Discrimination Complaints

**DoD Directive 5500.7-R**

Joint Ethics Regulation

**JTR VOL 2**

Joint Travel Regulations, Volume 2

**OPM Operating Manual**

Federal Wage System, Nonappropriated Fund

**OPM Operating Manual**

Qualification Standards for General Schedule Positions

**OPM Operating Manual**

The Guide to Processing Personnel Actions

**OPM Operating Manual**

The Guide to Personnel Recordkeeping

**Section III**

**Prescribed Forms**

Except where otherwise indicated below, the following forms are available on the Army Electronic Library (AEL) CD-ROM (EM 0001) and the USAPA Web site DD forms are available from the OSD Web site <http://webl.whs.osd.mil/icdhome/icdhome.htm>).

**DA Form 1599**

Initial Listing of Nonappropriated Fund Instrumentalities. (Prescribed in para 14-7.)

**DA Form 1600**

Changed Listing of Nonappropriated Fund Instrumentalities. (Prescribed in para 14-7.)

**DA Form 3433**

Optional Application for Nonappropriated Fund Employment. (Prescribed in para 2-6.)

**DA Form 3433-1**

Supplemental Employment Application Form. (Prescribed in para 2-6).

**DA Form 3433-2**

Supplementa-A Employment Application Form for Child-Youth Services Positions. (Prescribed in para 2-6).

**DA Form 3434**

Notification of Personnel Action-Nonappropriated Fund Employee. (Prescribed in para 1-15.)

**DA Form 3436**

Department of the Army Appointment Affidavit (Nonappropriated Funds). (Prescribed in para 2–14.)

**DA Form 3437**

Department of the Army Nonappropriated Funds Certificate of Medical Examination. (Prescribed in para 2–13.)

**DA Form 3439**

Nonappropriated Fund Instrumentality Employment Inquiry. (Prescribed in para 2–13.)

**DA Form 3440**

Department of the Army Transportation Agreement Nonappropriated Fund Employee. (Prescribed in para 2–13.)

**DA Form 3473**

Application for USANAF Retirement Plan and/or Group Insurance Plans. (Prescribed in para 2-14.) Available at: [www.NAFBENEFITS.com](http://www.NAFBENEFITS.com)

**DA Form 3612**

Nonappropriated Fund Instrumentality Employee Performance Rating. (Prescribed in para 6–6.)

**DA Form 3666**

Department of the Army Nonappropriated Fund Statement of Physical Ability for Light Work. (Prescribed in para 2–13.)

**DA Form 3715**

U.S. Army Nonappropriated Funds-Disposition of Retirement Benefits. (Prescribed in para 15–25.)

**DA Form 4017**

Request for Personnel Action-Nonappropriated Fund Instrumentality. (Prescribed in para 1–4e.)

**DA Form 4985**

NAF Referral and Selection List. (Prescribed in para 2–7.)

**DA Form 5167**

Incentive Awards-Nomination and Approval-Nonappropriated Funds. (Prescribed in para 9–4.)

**DA Form 5521**

Record of Emergency Data and Designation of Beneficiary For Unpaid Compensation of Deceased NAF Employee. (Prescribed in para 1–15.)

**DA Form 7426**

Application for USANAF Employee 401(K) Savings Plan. (Prescribed in para 15–37.) Available only at [www.NAFBENEFITS.com](http://www.NAFBENEFITS.com)

**DA Form 7427**

Nonappropriated Fund Inprocessing and Outprocessing Checklist. (Prescribed in para 2–14.)

**DA Form 7428**

Nonappropriated Fund Supervisor's Orientation Checklist. (Prescribed in para 2–14.)

## **Section IV**

### **Referenced Forms**

#### **DA Form 11–2–R**

Management Control Evaluation Certification Statement

#### **DA Form 1256**

Incentive Award Nomination and Approval

#### **DA Form 3800**

Career Referral List—Nonappropriated Funds

#### **DA Form 4250**

DA Certificate of Retirement. Available through normal supply channels.

#### **DA Form 4251**

DA Certificate of Appreciation. Available through normal supply channels.

#### **DA Form 5556–E**

Personnel Requirements Document. (Prescribed in para 2–4.) (See AR 215–1, chapter 9 for availability.)

#### **DD Form 214**

Certificate of Release or Discharge from Active Duty. Available through normal supply channels.

#### **FBI Form FD 259**

Applicant Fingerprint Card. (This form may be obtained through the Federal Bureau of Investigation, United States Department of Justice, Wash DC 20537.) Available through normal supply channels.

#### **INS Form I–9**

Employee Eligibility Verification

#### **IRS Form W–2**

Wage and Tax Statements. Available at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs).

#### **IRS Form W–4**

Employee Withholding Allowance Exemption Certificate. Available at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs).

#### **IRS Form W–5**

Earned Income Credit Advance Payment Certificate. Available at [www.irs.gov/forms-pubs](http://www.irs.gov/forms-pubs).

#### **IRS Form 4070**

Employee's Report on Tips. Available in Publication 1244 at [www.irs.gov/web](http://www.irs.gov/web) page

#### **OPM Form RI 38–110**

Election of Retirement Coverage as a Result of Move From a NAF Position to a Civil Service Position. Available at [www.opm.gov/forms/html/ff.opm.htm](http://www.opm.gov/forms/html/ff.opm.htm).

#### **SF Form 8**

Notice to Federal Employee About Unemployment Insurance

#### **SF Form 66–C**

Merged Records Personnel Folder. Available through normal supply channels.

#### **SF Form 66–D**

Employee Medical Folder. Available through normal supply channels.

#### **SF Form 85**

Questionnaire for Non-Sensitive Positions.

**SF Form 86**

Questionnaire for National Security Positions

**Standard Form 85P**

Questionnaire for Public Trust Positions

**SF Form 181**

Race and National Origin Identification

**SF Form 1150**

Record of Leave Date. Available through normal supply channels.

**Department of Labor Form LS-202**

Employees's First Report of Injury or Occupational Illness. Available at [www.dol.gov/dol/esa/public/regs/compliance/owcp/lisforms.htm](http://www.dol.gov/dol/esa/public/regs/compliance/owcp/lisforms.htm)

**ES Form 931**

Request for Wage and Separation Information. (Provided by State Unemployment Agency.)



## **Appendix B**

### **Minimum Qualification Requirements**

#### **B-1. Purpose**

The purpose of this appendix is to provide qualifications guidance for use in determining eligibility of applicants and employees.

#### **B-2. General**

*a.* When vacancy announcements are issued, they will clearly state the kind of experience required for the occupational series and grade/level of the position to be filled. The kind of experience required will be the same for all positions at the same level and occupational series. In no case may experience be so narrowly defined that competition is unduly limited. If any position in an occupational series is so specialized that special skills and knowledge are required, then these skills and knowledge must have been acquired within or in addition to the required experience. For such positions eligibility will be determined by screening on a selective basis to identify those who possess the specialized knowledge or skills.

*b.* Satisfactory performance in a current or recently held position with duties comparable to those of the position to be filled, eligibility in an OPM examination, completion of appropriate education, and recommendations from former or current supervisors, employers, or teachers, ordinarily are reliable indicators of qualifications. There will be no requirement that experience must have been gained in a paid position, in the Department of Army or DoD, or in a particular type of NAFL.

#### **B-3. Special skills or education**

When a position requires a special skill or education, it must be determined that the person selected meets that requirement. For example, possession of a valid driver's license is necessary for operation of motor vehicles, in addition to experience requirements. Likewise, possession of typing skill must be determined for some positions, as evidenced by recent successful typing experience, by eligibility on an appropriate certified test, by a statement of proficiency by a competent authority, or by self certification. A requirement for a special skill may be added to the qualification requirements stated above only when the duties of a position require the special skill. Qualification Standards for GS positions must be used to establish minimum qualifications for payband positions that have a positive educational requirement or when licenses or qualifications are required.

#### **B-4. Qualifications for child development services positions**

The following are special qualification criteria for child development services positions:

- a.* No conviction of an act of child battering, child abuse, child molestation, child neglect, or any drug related offense.
- b.* Ability to speak, read and write English at a level adequate to execute health and safety directives, and implement developmental activities for children to satisfaction of CDS Program Director.
- c.* Minimum 18 years of age and must hold a high school diploma or equivalent.
- d.* Demonstrated ability to provide for the care and protection of children.
- e.* Ability to walk, bend, stoop, sit in low chairs and stand for prolonged periods.
- f.* Ability to lift up to 40 pounds.
- g.* Documentation of good mental and physical health and freedom from communicable disease.
- h.* Satisfactory completion of required training will be documented and evidence of that accomplishment will be placed in the employee's official personnel folder. Training will be credited in promotion consideration.

#### **B-5. Qualification of Lifeguards and Aquatic Instructors**

- a.* Lifeguards must have both certification (1) and (2) below.
  - (1) A current Lifeguard Training certification approved by the American Red Cross. This certification includes Community First Aid and Safety.
  - (2) A current CPR certification for the Professional Rescuer approved by the American Red Cross.
- b.* Instructors must have certification in the "specialty" they are teaching. For teaching swimming and water safety the American Red Cross approved Water Safety Instructor Certification is required.

## Appendix C

### Standard Terms for Nature of Action, DA Form 3434

#### C-1. Standard terms

The terms in table C-1 are authorized for use in completing item 11b, Nature of Action, on DA Form 3434. Except appointments and resignations, all actions will be effective the beginning of the pay period following receipt of the completed request in the CPAC/NAF-CPU.

**Table C-1**  
**Standard terms for nature of action**

Nature of Action	Basis for the Action
Appointment FLX NOA AO10	Employee serves in a continuing position on either a scheduled or an as needed basis. Employees paid on the FWS or CC pay schedules who are regularly scheduled must have a guaranteed number of hours entered in item 25. When the appointment is for a temporary need, enter the not to exceed date in item 25. NOTE: FLX appointment may have a time limitation of less than one year. Indicate the NTE in item 25.
Appointment RPT NOA AO10	Employee serves in a continuing position on a scheduled basis for 20 to 39 hours a week. The minimum workweek is 20 hours. Employee will serve a one-year probationary period. Employee is eligible to participate in employee benefit plans and is eligible for leave accrual.
Appointment - RFT NOA AO10	Employee serves in a continuing position on a scheduled basis for 40 hours a week. Employee will serve a one-year probationary period. Employee is eligible to participate in employee benefit plans and is eligible for leave accrual.
Appointment RPT Seasonal NOA AO10	Employee serves in a continuing position for 20-39 hours a week, on a seasonal basis, with a minimum of 6 months in a work status. Remark will be made in item 25 indicating the periods in a non-work status. Employee is eligible to participate in benefit plans and is eligible for leave accrual. (DA Form 3473 must be completed for period of LWOP.)
Appointment RFT Seasonal NOA AO10	Employee serves in a continuing position for 40 hours a week, on a seasonal basis with a minimum of 6 months in a work status. Remark will be made in item 25 indicating the periods in a non-work status. Employee is eligible to participate in benefit plans and is eligible for leave accrual. (DA Form 3473 must be completed for period of LWOP.)
Appointment RPT - Limited Tenure (NTE Date) NOA AO12	Employee serves in a RPT appointment for 20-39 hours a week, minimum 20 hours a week, for a limited period in excess of one year. Remark in item 25 will indicate the ending date of the appointment. Employee is eligible to participate in benefit plans and is eligible for leave accrual.
Appointment RFT - Limited Tenure (NTE Date) NOA AO12	Employee serves in a RFT appointment for 40 hours a week, for a limited period in excess of one year. Remark in item 25 will indicate the ending date of the appointment. Employee is eligible to participate in benefit plans and is eligible for leave accrual.
Appointment RPT Public Law 101-508 NOA AO15	Employee is moving from an APF position under PL 101-508 to a position with a minimum tour of 20 hours a week. Remark in item 25 must indicate which retirement plan (CSRS, FERS or NAF) is selected by the employee. This is a one time irrevocable selection.
Appointment RFT Public Law 101-508 NOA AO15	Employee is moving from an APF position under PL 101-508. Remark in item 25 must indicate which retirement plan (CSRS, FERS, or NAF) is selected by the employee. This is a one time irrevocable election.
Appointment - Transfer of Function (Followed by employment category) NOA AO18	Employee moves with the function from another DoD NAFI to Armyanother DoD NAFI, or movement of the function to another commuting area. Indicate in item 25- leave transfer and retention of pension rights IAW paragraph _____.
Appointment - Summer Aide (OCONUS) NOA AO20	Summer employment of students in overseas areas only.
Appointment Concurrent NOA AO11	Followed by the employment category (FLX or RPT).
Extension - RFT or RPT Limited Tenure (NTE Date) NOA AO87	Self-Explanatory.
Reinstatement (Followed by em- ployment category) NOA AO16	Employee is reinstated within 3 years of separation within Army NAFI's. When an employee subject to Public Law 101-508 is reinstated, a remark in item 25 will indicate the irrevocable selection of retirement plan.

**Table C-1**  
**Standard terms for nature of action—Continued**

Nature of Action	Basis for the Action
Reemployment (Followed by employment category) NOA AO24	Employee is reemployed within Army NAFI's after a break in service of more than 3 years. If a retirement election has been made under PL 101-508, indicate the appropriate retirement plan in item 25.
Transfer (Followed by appointment category) NOA AO48	This is the movement of an employee without a break in service between DoD NAFIs. A transfer may be non-competitive when to same or lower grade or payband level.
Change to Lower Pay Level NOA AO55	NF or CC Employee affected by a Business Based Action, reclassification, or at employees request. Requires a change of position.
Temporary Reassignment (Followed by the Appointment category) (NTE Date) NOA AO56	Employee is reassigned for a temporary period (With or without a pay adjustment- NF employees). To be used only when assignment is in excess of two pay periods.
Extension of Temporary Reassignment (NTE Date) NOA AO57	Self-explanatory.
Termination of Temporary Reassignment NOA AO58	Employee is returned from temporary reassignment to previous position.
Conversion of Employment Category NOA AO59	Employee is changed from one employment category to another in the same position. Only used to change from FLX to RPT or RFT; from RPT to FLX or RFT; and from RFT to RPT or FLX.
Promotion (Followed by employment category) NOA AO60	Employee is promoted to a position at a higher grade (NA-NL-NS) or to a higher level (CC-NF).
Change to Lower Grade NOA AO61	NA-NL-NS employee is changed to a lower grade for any reason. For employees entitled to saved pay, explain in item 25.
Reassignment (Followed by the employment category) NOA AO62	Employee is reassigned from one position to another at the same pay level or grade (With or without a pay adjustment-NF employees).
Temporary Promotion (Followed by employment category) (NTE Date) NOA AO63	Employee is promoted within a NAFI for a temporary period. A noncompetitive temporary promotion may not exceed 120 days.
Transfer In (Followed by employment category) NOA AO21	Employee moves from one Army NAFI to another. This action is processed by the gaining NAFI. Indicate leave transfer in item 25. (Movement is from one installation to another installation.)
Emergency Hire FLX (NTE 30 Days) NOA AO26	Employee is appointed noncompetitive to a FLX position for an emergency period of 30 days or less. Appointment must be terminated within the 30-day period and cannot be converted to a regular appointment. In unusual circumstances the installation commander may approve one 30-day extension. Emergency hire status does not count as prior NAF service. Subsequent employment will be initial appointment.
<b>MISCELLANEOUS PERSONNEL ACTIONS</b>	
Amendment NOA AO03	Use to add or delete information to alter modify or rephrase to clarify previous action taken: explain in item 25.
Change in citizenship NOA AO95	Employee becomes a US citizen.
Change in Standard NAFI Number NOA AO97	Employee's SNN changes to another SNN without any other change.
Change in Position Number NOA AO99	Change of position number when pay level/grade is not changed. State reason in item 25.
Change in Guaranteed Hours NOA A782	Employee's guaranteed hours are changed. No change in employment category.
Change in Military Status NOA AO70	Employee is no longer employed as off duty military.

**Table C-1**  
**Standard terms for nature of action—Continued**

Nature of Action	Basis for the Action
Change in Service Computation Date NOA AO71	Upon receipt of documented proof of prior creditable service, explain in item 25 (for example, former military provides DD 214 for leave accrual).
Name Change NOA AO72	Employee has a name change. Explain in item 25.
Change in Tip Offset NOA AO81	Indicate in item 21a the new tip offset amount. Effective date will be the beginning of a pay period.
Cancellation NOA AO01	Use to cancel any action that is withdrawn or determined to be unjustified or unwarranted; explain in item 25. Other than entry for items 11b and 25, all items are the same as in the action being cancelled.
Correction NOA AO02	Use to correct errors: explain in item 25.
Return to Duty (Followed by employment category) NOA AO88	Employee returns to duty from BBA Furlough or Military Furlough. Indicate in item 25 the dates of the furlough period.
Extension of Temporary Promotion (NTE Date) NOA AO89	Noncompetitive temporary promotion may not be extended beyond 120 days.
Termination of Temporary Promotion (NTE Date) NOA AO91	Employee is returned to previous position and pay.
Furlough (NTE Date) NOA AO84	Employee is placed on furlough in excess of 30 days due to BBA.
Furlough - Military (NTE date) NOA AO85	Employee reports for active military service;; not to be used for military leave.
Extension of Furlough (NTE Date) NOA A184	Self-explanatory.
Expiration of Grade Retention NOA 102	Employee is assigned to the grade of the occupied position.
Within Grade Increase NAO A893	Use for NA-NL-NS employees only.
Pay Adjustment NOA A894	Use to change the rate of pay for performance, retention, BBA, or FWS schedule change.
Retention Allowance (NTE date) 12 months from (effective date) NOA A880	Retention allowance (RA) of up to 25 percent of basic pay may be authorized to an employee in a continuing position without time limits. RA is paid in the same manner and at the same time as basic pay, although it is not considered part of basic pay.
Extension of Retention Allowance (NTE Date) (of Retention Allowance) NOA A881	Requires annual evaluation and justification by management; the RA may increase, decrease or remain the same.
Expiration of Retention Allowance NOA A882	RA is discontinued on the NET date.
SEPARATIONS (Effective at end of the last duty day)	
Resignation NOA AO30	Employee resigns; reason should be stated in item 25. Must provide forwarding address for final pay.
Resignation - Public Law 101-508 NOA AO47	Employee resigns to accept APF employment. Indicate irrevocable retirement selection in item 25. (Voluntary move)
Transfer Out NOA AO49	Employee moves from one Army NAFI to another Army NAFI. The losing activity will process this action, indicating leave transfer in item 25. DA Form 3473 must be complete for participating employees. (Movement is from one installation to another installation.)
Separation - Public Law 101-508 NOA A050	Employee moves to APF system when position is converted. Indicate irrevocable retirement selection in item 25. (Involuntary move)

**Table C-1**  
**Standard terms for nature of action—Continued**

Nature of Action	Basis for the Action
Separation - Disqualification NOA A031	Employee becomes disqualified for any reason. Indicate specific non-medical disqualification in item 25.
Separation - Misconduct NOA A033	Employee is separated for job related misconduct. Indicate reason for separation in item 25; must be consistent with reasons stated in decision notice on separation.
Separation - Inefficiency NOA A035	Employee is separated due to unsatisfactory performance. Reasons in item 25 must be consistent with reasons stated in decision notice on separation.
Separation - BBA Action NOA A037	Employee separated due to BBA.
Separation - Transfer of Function NOA A040	Employee is separated without an offer to move with function to another DoD NAFL. Employee is entitled to severance pay.
Separation - Declined Transfer of Function NOA A041	Self-explanatory.
Separation from RFT or RPT Limited Tenure Appointment NOA A044	Employee is separated at the end of appointment period or upon management request if position is no longer required.
Separation - Retirement NOA A043	Voluntary employee retirement.
Separation - Death NOA A045	Self-explanatory. Item 25 must include the name, mailing address, and social security number of the beneficiary for unpaid compensation identified on the DA Form 5521-R.
Since the following separations do not provide a due process hearing, no remarks will be made in Item 25. This does not preclude oral or written notification to the employee of specific reasons for separation if desired. No reasons, explanations or "Remarks" for any of the following separations will be placed on the DA Form 4017 or in the official personnel folder.	
Separation - During Probation NOA A032	Employee is separated during probation. No reason will be entered in remarks.
Separation from Flexible Appointment NOA A042	Administrative separation only.
Separation - Abandonment of Position NOA A038	Employee is separated due to abandonment of position, after at least 3 consecutive scheduled work-days in an AWOL status.

## **C-2. Approval of terms**

No other terms may be used without prior approval of The Assistant G-1 for Civilian Personnel Policy. These terms may not be combined in item 11b. When more than one action is being effected on the same date, reflect the primary NOA in item 11b and place a remark in item 25 that denotes any other action being effected at the same time. Retroactive actions are not authorized except in accordance with paragraph 3-33.

## **Appendix D**

### **Management Control Evaluation Checklist**

#### **D-1. Function**

The functions covered by this checklist are the administration, operation and management of Morale, Welfare, and Recreation (MWR) activities and Nonappropriated Fund Instrumentalities (NAFIs). The internal accounting and administrative controls within the organization must provide reasonable assurance that assets are safeguarded against waste, loss, unauthorized use, or misappropriation. Some of the actions supporting this assurance of assets control include the review of all TDY travel requests/claims for appropriateness and prudence, and review of requests for training to ensure that the most economical and effective location and training is selected.

#### **D-2. Purpose**

The purpose of this checklist is to assist MACOMs and installation personnel responsible for MWR activities and NAFIs in administering APF and NAF resources, meeting reporting requirements, and managing and evaluating key management controls. The checklists do not cover all controls.

#### **D-3. Instructions**

Answers must be based on actual testing of key management controls, such as document analysis, direct observation, interviewing and sampling. Answers that indicate deficiencies must be explained and corrective action indicated in supporting documentation. These controls must be evaluated in accordance with the schedule in the Management Control Plan. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2-R (Management Control Evaluation Certification Statement).

#### **D-4. Test questions**

##### *a. Classification and Pay.*

- (1) Do supervisors certify that duties and responsibilities described in job descriptions/position guides are accurate by signing the job description/position guide?
- (2) Were DoD job grading standards and DA authorized job descriptions/positions guides used as appropriate?
- (3) Are desk audits conducted when proposed job descriptions will upgrade positions, or downgrade positions?
- (4) Are 10% of the positions audited annually to ensure proper job classification?
- (5) Are OPM and DoD standards implemented within 6 months of receipt?
- (6) Are appeal procedures made available to employees?
- (7) Are local pay policies written to ensure fair and equitable treatment of employees in setting and adjusting pay?
- (8) Are procedures in place to track pay adjustments to ensure adherence to EEO principles?

##### *b. Employee Benefits.*

- (1) Do eligible employees receive an explanation of medical insurance available, enrollment period limitations, related costs, etc for both employees and newly acquired dependents?
- (2) Are eligible employees receiving an explanation of costs and benefits associated with the basic and optional life insurance plans?
- (3) Do eligible employees receive an explanation of costs and benefits available from the NAF employee Retirement Plan and 401(k) Plan?
- (4) Are changes in medical insurance plans, life insurance plans and retirement plans made in a timely manner?
- (5) Were seasonal employees and employees in Leave Without Pay (LWOP) status counseled concerning continuation of benefits and medical/life insurance while in LWOP status provided?
- (6) Are separated employees or survivors counseled concerning retirement plan options at termination of employment or death?

##### *c. Legal and Regulatory Program.*

- (1) Are NAFI personnel files and records kept in a secure room or locked cabinet in the CPU?
- (2) Are medical records properly safeguarded and maintained separate from the official personnel folders?
- (3) Are Business Based Action (BBA) records retained for one year after BBA letter is issued.
- (4) Are local Reemployment Priority Lists maintained for one year after separation of an employee separated by Business Based Action?
- (5) Where concurrent appointments are held are employees informed of the 40 hour weekly aggregate work limit between the two jobs and the consequences of exceeding the limit?
- (6) Are immigration and naturalization services forms I-9 timely obtained and retained for all employees?
- (7) Are position descriptions annotated with the FLSA determination prior to appointment of an incumbent?
- (8) Are details to sets of duties evaluated as to grade to ensure the duties are not of a higher nature than the grade of the person detailed?

(9) Are violations pertaining to waste, loss, mismanagement, and unauthorized or improper use of NAF's investigated and reported?

(10) Are penalties administered as prescribed by law and regulation?

*d. Recruitment and staffing.*

(1) Are references for selected individuals obtained prior to employment?

(2) Are background checks completed on selected individuals as appropriate?

(3) Is military service documented regarding length of service and type of discharge?

(4) Are all applications screened for possible nepotism?

(5) Are medical examinations accomplished where required?

(6) Are the reasons for selection of an individual for a job on the referral list?

(7) Is there a clearly defined audit trail from the request for personnel action to the job offer?

(8) Are job announcements disseminated so everyone eligible to apply for the position has the opportunity to so?

(9) Do job announcements contain all the information required by law and regulation?

*e. Incentive/performance awards.*

(1) Are nominations for awards issued in a timely manner and in accordance with provisions of AR 215-3?

(2) Are nominations signed by both the nominating and approving officials?

(3) Are performance awards granted in accordance with DA Regulation 215-3 and local award policies?

(4) Are incentive/performance awards tracked to ensure fair and equitable distribution?

*f. Employee relations.*

(1) Are new employees informed at the time of employment or entrance on duty of the standards of conduct and behavior expected of them?

(2) Are the provisions of the Joint Ethics Regulation brought to the attention of all employees annually?

(3) When disciplinary actions are taken are previous offenses, if any, considered in arriving at disciplinary actions?

(4) Was all information concerning alleged misconduct documented?

(5) Is disciplinary action initiated in a timely manner in accordance with Army regulation?

(6) Do supervisors provide employees proper advance notice of proposed disciplinary actions?

(7) Do supervisors provide employees with an opportunity to give their side of the matter in question?

(8) Do notices to employees about disciplinary actions contain specific charges of the misconduct, including dates?

(9) Are employees provided the opportunity to review all the material relied upon in taking disciplinary action against them on their request?

(10) Does the servicing CPAC and legal office review disciplinary actions prior to issuance?

(11) Are employees provided decision letters including the right of grievance or appeal?

*g. Employee Development*

(1) Is training /TDY/travel provided in accordance with AR 215-3 and the JTR?

(2) Is the training job related, beneficial to the organization, and beneficial to the development and performance of the employee?

(3) Is the training and location cost effective?

(4) Has all of the required paperwork been completed and submitted in accordance with applicable guidelines?

**D-5. Comments**

Help make this a better tool for evaluating management controls. Submit comments to the Deputy Chief of Staff, G-1 ATTN: DAPE-CP-NAF, Washington, DC 20310-0111.

## **Glossary**

### **Section I Abbreviations**

#### **AAFES**

Army and Air Force Exchange Service

#### **ACAP**

Army Career Alumni Program

#### **ACRF**

Army Central Retirement Fund

#### **ACS**

Army Community Service

#### **ACTEDS**

Army Civilian Training, Education, and Development System

#### **ACWF**

Army Civilian Welfare Fund

#### **ADAPCP**

Alcohol and Drug Abuse Prevention Control Program

#### **ADCFA**

Assistant Director of Community and Family Activities

#### **AFRC**

Armed Forces Recreation Center

#### **AMWRF**

Army Morale, Welfare, and Recreation Fund

#### **APF**

Appropriated Fund

#### **AR**

Army Regulation

#### **AWOL**

absence without leave

#### **AWOP**

absence without pay

#### **BBA**

Business Based Action

#### **CAO**

Central Accounting Office; Central Accounting Officer

#### **CC**

Child Care

#### **CDS**

Child Development Services

#### **CFR**

Code of Federal Regulations



**CFSC**

Community and Family Support Center

**CONUS**

Continental United States

**CPAC**

Civilian Personnel Advisory Center

**CPCN**

Civilian Position Control Number

**CPMS**

Civilian Personnel Management Service

**CPOC**

Civilian Personnel Operations Center

**CPPP**

Caregiving Personnel Pay Program

**CRP**

Central Referral Program

**CSRS**

Civil Service Retirement System

**CYPPP**

Child and Youth Personnel Pay Program

**DA**

Department of the Army

**DAIG**

Department of the Army Inspector General

**DDES**

Defense Dependents Education System

**DFAS**

Defense Finance and Accounting Service

**DoD**

Department of Defense

**DoDD**

Department of Defense Directive

**DoDI**

Department of Defense Instruction

**DoDIG**

Department of Defense Inspector General

**DoL**

Department of Labor

**DPCA**

Director of Personnel and Community Activities

**DCA**

Director of Community Activities

**DSR**

Discontinued Service Retirement

**DSSR**

Department of State Standardized Regulations

**EAP**

Employee Assistance Program

**EBS**

Employee Benefit System

**EEO**

Equal Employment Opportunity

**EO**

Executive Order

**FCC**

Family Child Care

**FERS**

Federal Employees Retirement System

**FFLA**

Family Friendly Leave Act

**FICA**

Federal Insurance Contributions Act

**FLSA**

Fair Labor Standards Act

**FMLA**

Family Medical Leave Act

**FWS**

Federal Wage System

**FY**

fiscal year

**GS**

General Schedule

**HMO**

Health Maintenance Organization

**HQ**

Headquarters

**HQDA**

Headquarters, Department of the Army

**IG**

Inspector General

**IMWRF**

Installation Morale, Welfare, and Recreation Fund

**INS**

Immigration and Naturalization Services

**IRS**

Internal Revenue Service

**ISMP**

Involuntarily Separated Military Preference

**JTR**

Joint Travel Regulation

**LHWCA**

Longshore and Harbor Workers Compensation Act

**LN**

local national

**LQA**

Living Quarters Allowance

**LWOP**

leave without pay

**MACOM**

major command

**MCCA**

Military Child Care Act

**MFR**

Memorandum for Record

**MWR**

Morale, Welfare, and Recreation

**NAC**

National Agency Check

**NAF-CPU**

Nonappropriated Fund Civilian Personnel Unit

**NAF**

nonappropriated fund

**NAFI**

Nonappropriated Fund Instrumentality

**NFS**

Nonappropriated Fund Financial Services

**NOK**

next of kin

**NOA**

nature of action

**NTE**

not to exceed

**OCONUS**

Outside the Continental United States

**ODM**

Off-duty Enlisted Military

**OMRPF**

Official Merged Records Personnel Folder

**OPF**

Official Personnel Folder

**OPM**

Office of Personnel Management

**OSD**

Office of the Secretary of Defense

**PCS**

Permanent Change of Station

**PRA**

Permanent Resident Alien

**PRD**

Personnel Requirements Document

**QRAP**

Quality Review and Advisory Panel

**RFT**

regular full-time

**RIMP**

Risk Insurance Management Program

**RPL**

Reemployment Priority List

**RPT**

regular part-time

**SAS**

School Age Services

**SCHR**

State Criminal History Repository

**SA**

Secretary of the Army

**SEP**

spouse employment preference

**SF**

Standard Form

**SJD**

Standard Job Description

**SNN**

Standard NAFI Number

**SOFA**

Status of Forces Agreement

**SOP**

Standard Operating Procedure

**SSB**

Special Separation Benefit

**SPG**

Standard Position Guide

**SSN**

social security number

**SSP**

Sustained Superior Performance

**TA**

Transition Assistance

**TDY**

temporary duty

**US**

United States

**USA**

United States of America

**USACFSC**

United States Army Community and Family Support Center

**USAREUR**

United States Army Europe

**VERA**

Voluntary Early Retirement Authority

**VSI**

Voluntary Separation Incentive

**YS**

youth services

**WSD**

Wage Setting Division

**Section II****Terms****Accumulated Leave**

The unused leave to the employee's credit at the end of the leave year.

**Accrued Leave**

The amount of leave earned but not used during the current leave year.

**Administrative workweek**

A period of 7 consecutive calendar days designated in advance by the appropriate official.

**Appropriate authority**

An entity having authority in the case to correct or direct the correction of an unjustified or unwarranted personnel action.

**Appropriated fund employee**

A person employed by the United States Government and paid from funds appropriated by the Congress of the United States.

**Appropriated funds**

Monies made available to the military departments by the Congress of the United States. Such appropriations are of two types: annual and multi-year. The purpose for which funds are appropriated are specified by Congress in its appropriation acts.

**Army MWR Fund**

Central MWR fund at USACFSC.

**Basic Pay**

Means the total amount of pay received during any 1 calendar year at the rate fixed by law or administrative action for the position held by the employee, including night and environmental differentials for prevailing rate employees respectively, but before any deductions and exclusive of any additional pay of any kind.

**Basic workweek**

The days and hours within the administrative workweek for a full-time or for a part-time employee during which an employee is expected to be on duty. These hours may be scheduled as regular, irregular, or rotating tours of duty.

**Business Based Action**

Non-disciplinary, involuntary action taken to adjust personnel resources.

**Compensatory Time Off**

Time off in lieu of overtime pay. When not used within 13 pay periods of date earned, it is paid at the overtime rate in effect when the time was earned.

**Continental United States (CONUS)**

The 48 contiguous States and the District of Columbia.

**Continuing position**

A position that is expected to continue in excess of one year.

**Dependent**

(see family member)

**Detail**

A temporary assignment of an employee to a different position or set of duties.

**Disabled Veteran**

An individual who has served on active duty in the Armed Forces, has been separated under honorable conditions, and has established the present existence of a service connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administration by the Department of Veterans Affairs or a military department.

**DoD Component**

Any of the military departments, DoD agencies, the Army and Air Force Exchange Service, and the office of the Secretary of Defense.

**DoD personnel**

Military personnel (including retired members and reservists on active or inactive duty for training) and DoD civilian employees paid from appropriated and nonappropriated funds.

**Duty station**

Geographic location where work is performed

**Equivalent position**

Position which is sufficiently alike in duties, responsibilities and requirements that the employee could be moved without significant employee training or additional increase in skills or knowledge, or without unduly interrupting the work program.

**Executive control and essential command supervision**

Those managerial functions of planning, organizing, directing, coordinating, and controlling the overall operations of NAF programs and activities. It consists specifically of program, fiscal, logistical, and other management functions that are separate from the daily working level activities and tasks of the NAF programs. Excluded from this definition is the direct operation of individual MWR programs and activities.

**Extended active duty**

Full-time duty in the active military service of the United States, entered into with the original expectation of serving for an indefinite or stated period of time, other than active duty for training.

**Family member**

- a. The spouse of a military service member;
- b. Unremarried widow or widower of a member or former member of a uniformed service;
- c. Unmarried child of a sponsor, including an adopted child, stepchild, foster child, or ward, who—
  - (1) Has not passed their twenty-first birthday; or
  - (2) Is incapable of self-support because of a mental or physical incapacity that existed before that birthday and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his/her support; or
  - (3) Has not passed their twenty-third birthday, is enrolled in a full-time course of study in an institution of higher learning approved by a Secretary of an executive department specified in 10 U.S.C., Section 1073, and is (or was at the time of the member's or former member's death) in fact dependent on the sponsor for over one-half of his/her support.

**Federal service**

For the purposes of Unemployment Compensation, service performed after 1952 as a civilian or by military personnel during off-duty hours in the employ of the U.S. or any instrumentality thereof service outside the U.S. by non-U.S. citizens is excluded from this definition.

**Federal Wages**

All gross pay and allowances, in cash and in kind, for federal wages.

**Flexible employee**

A flexible employee is one who has been appointed to serve in a continuing position or time limited and who is on call or scheduled for a specific number of hours each administrative workweek. Flexible employees are ineligible for all employee benefits.

**Foreign areas**

Area (including the Trust Territory of the Pacific Islands) situated outside the United States, the Commonwealth of Puerto Rico and the possessions of the United States.

**Foreign national NAFI employee**

A citizen of an overseas host country or foreign country employed by a NAFI and compensated from NAFs.

**Full-time employee**

An employee hired for a regular position who has a regularly scheduled workweek of 40 hours each week.

**Full-time tour of duty**

A basic weekly tour consisting of 40 hours of duty each week.

**Fund manager**

An individual appointed by written authority to a post of responsibility and trust to exercise administrative and executive control of a NAFI and charged with accountability for the NAF resources thereof.

**Furlough**

A non-duty, non-pay status resulting from a BBA. During the furlough period, no leave of any kind is authorized. This action is only taken to adjust personnel resources and is non-disciplinary in nature.

**Grievance**

A request by an employee or a group of employees for personal relief from matters of concern or dissatisfaction, including requests for relief from personnel actions that have previously been administered as appeals.

**Grievance decision**

A decision issued as a result of consideration of a formal grievance.

**Harmful error**

An error made by the activity in applying governing regulatory procedures, which in the absence of correction or cure might have caused the activity to reach a conclusion different than the one reached. The grievance must show, based on the whole record, that the error was harmful.

**Head of a Nonappropriated Fund Instrumentality**

The individual responsible for the effective and efficient accomplishment of the functions of the instrumentality.

**Honorary Award**

An award in the form of a certificate, pin, emblem, plaque, or other item that can be worn or displayed.

**Incentive award**

An incentive term, covering cash awards, honorary awards, length-of-service awards, and pay adjustments.

**Installation commander**

The term installation commander refers to the commander of an installation, activity, or military community, and for the purposes of this regulation also includes the General Manager of an Armed Forces Recreation Center. It may also mean an installation commander's designate for MWR responsibilities.

**Installation Morale Welfare Recreation Fund**

A Nonappropriated Fund Instrumentality established for the purpose of providing installation/community MWR activities, including food and beverage, retail, recreation, and community support services.

**Irregular tour of duty**

A tour which may require service on different shifts, different hours of the day, or different days of the administrative workweek.

**Leave Year**

The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

**Memorandum for record**

A written, factual summary of events relating to a specific action, signed and dated by the writer.

**Military Departments**

The Departments of the Army, the Navy, and the Air Force.

**NAF employee**

A person employed by a NAFI and compensated from NAFs.

**Nonappropriated Fund Instrumentality**

An integral DoD organizational entity which performs an essential Government function. It acts in its own name to provide or assist other DoD organizations in providing morale, welfare, and recreation programs for military personnel and civilians. It is established and maintained individually or jointly by the heads of DoD components. As a fiscal entity, it maintains custody of and control over its nonappropriated funds. It is responsible for the prudent administration, safe-guarding, preservation, and maintenance of those appropriated fund resources made available to carry out its



function. With its nonappropriated funds, it contributes to the morale, welfare, and recreational programs of other authorized organizational entities when so authorized. It is not incorporated under the laws of any State or the District of Columbia and enjoys the legal status of an instrumentality of the United States Government.

**Nonappropriated funds**

Cash and other assets received by NAFIs from sources other than moneys appropriated by the Congress of the United States. NAFIs are Government funds used for the collective benefit of those who generate them: military personnel, their family members, and authorized civilians. These funds are separate and apart from funds that are recorded in the books of the Treasurer of the United States.

**Off Duty Military**

Enlisted, active duty military personnel employed as a civilian by a NAFI.

**Part-time tour of duty**

A basic weekly tour consisting of from 20 to 39 hours of duty each week.

**Pay, allowances and differentials**

Monetary benefits to which an employee is entitled by statute or regulation by virtue of the performance of a Federal function.

**Pay adjustment**

A result of revised pay schedules for FWS employees. A change in the basic rate of pay for a payband employee for rate changes, or employment cost index adjustments, performance recognition, BBA, or for retention purposes.

**PL 101-508 - Portability**

The Portability of Benefits for Nonappropriated Fund amended by the National Defense Authorization Act to FY 1996.

**Priority Consideration**

Consideration in employment for eligible, qualified candidates. Selection is not mandatory and non-selection must be justified in writing as appropriate for the particular priority consideration category.

**Rate of Basic Pay**

Rate of basic pay for grade and pay retention purposes is the rate of pay fixed by law or administrative action for position held by an FWS employee before any deductions and exclusive of additional pay of any kind, such as night or environmental differentials.

**Reassignment**

Movement of an employee from one position to another position at the same grade/level in the same NAFI. For payband employees it may be with or without a pay adjustment. This action may be taken noncompetitively.

**Regular employee**

*a.* A regular full-time employee is one who has been appointed to serve in a continuing position and who has a basic workweek of 40 hours.

*b.* A regular part-time employee is one who has been appointed to serve in a continuing position and who has a basic workweek of 20 to 39 hours.

*c.* A regular, seasonal employee is one who has been appointed to serve full-time or part-time in a continuing position with a duty and pay status of at least 6 months but less than 12 months each year.

*d.* A regular, limited tenure employee is one who has been appointed to serve full-time or part-time in a position in excess of one year but with a known termination date.

**Regular tour of duty**

A tour of duty, which requires service on the same days and the same hours or shift of each administrative workweek.

**Rotating tour of duty**

A tour of duty which periodically requires service on different shifts, different hours of the day, or different days of the administrative workweeks.

**Servicing civilian personnel office**

The personnel office which provides technical advice, guidance, and administrative staff supervision to the NAF personnel staff which is responsible for implementing this regulation for all NAFIs on an installation.

**Special Act or Service Award**

Consists of meritorious non-recurring personal effort, an act, or a service performed within or outside assigned job responsibilities, which contributes to the efficiency, economy, profitability or other improvement of NAF operations. Included are acts of heroism or other deeds that reflect credit on NAFI operations.

**Standard NAFI identification number**

Alpha numeric code number assigned by HQDA that uniquely and exclusively identifies each Army NAFI by its MACOM, installation, classification, and other coded information.

**Successor (or successor in interest) NAFI**

A NAFI designated by the Army to: provide financial support and assistance to specified or assigned NAFIs, as required; receive and redistribute excess assets of its assigned NAFIs; receive or distribute residual assets of a dissolved or disestablished assigned NAFI; or assume residual liabilities of a dissolved or disestablished NAFI.

**Suggestion Award**

Authorized for an idea adopted by management, which contributes to the efficiency, effectiveness, or economical operation of a NAFI.

**Suspension**

A non-duty, non-pay status effected as a disciplinary measure. No leave of any kind is authorized during the suspension period.

**Sustained Superior Performance Award (SSPA)**

A lump sum cash award based on individual performance for a period of at least 12 months, which exceeds the requirements for satisfactory performance. For pay band employees it may be a lump sum cash award or a performance based pay adjustment.

**Tour of duty**

The hours an employee is scheduled to work.

**Unjustified or unwarranted personnel action**

An act of commission or an act of omission (that is, failure to take an action or confer a benefit) that an appropriate authority subsequently determines, on the basis of substantive or procedural defects, to have been unjustified or unwarranted under applicable law, rule, regulation or mandatory DA personnel policy or under a collective bargaining agreement.

**Section III****Special Abbreviations and Terms**

This section contains no entries.

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